

1999 CHEROKEE NATION CONSTITUTION CONVENTION

VOLUME II

**TRANSCRIPT OF PROCEEDINGS**, taken on the 27th day of February, 1999,  
at Northeastern State University, Net Building, 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: Good morning, ladies and gentlemen.

THE DELEGATES: Good morning.

MR. HANNAH: That was a pretty weak good morning out there. Good morning.

THE DELEGATES: Good morning.

MR. HANNAH: Good to see you all today. We are about the business of our agenda for the second day, Saturday. Prior to launching in today's activities, of course, we'll have a report from the Credentials Committee so that we know the statutes of the delegates at this time.

Mr. Secretary, George Underwood.

MR. UNDERWOOD: Mr. Chairman, there are seventy-six delegates present. There is a quorum of thirty-nine. And with that, we're ready to do business.

MR. HANNAH: Thank you, sir. Of the seventy-six delegates that we have here, and the Chair will simply view the room, have you all been sworn in and taken your oath? Is there anyone here that has not? Very well. We're ready, and see you for business.

The amendment that we passed yesterday for the agenda was to bring first order of business to review the standing rules for the convention. And so, therefore, what would be the pleasure of the delegates at this time? You have had copies of the standing rules. We've now had an opportunity to review, reflect and think on those. And the Chair recognizes Chad Smith.

MR. SMITH: Mr. Chairman, I would ask -- I would move to amend the Rule Number 11, which now reads, debate shall be limited to three minutes for each speaker and fifteen minutes for each question. Move to amend that to read: "The debate shall be limited to five minutes for each speaker and unlimited number of persons on each question."

MR. HANNAH: Unlimited persons or time?

MR. SMITH: Persons. Everybody here should have an opportunity to speak on any particular subject.

DELEGATE: Second.

MR. HANNAH: There is a second. Discussion? Hearing no discussion, then we'll move for -- sir?

MR. DOWNING: I would like to remind this delegation -- Carl Downing. I would like to remind the delegation that if this is passed, the delegation can still stop debate when they're ready for it to be stopped.

MR. HANNAH: Thank you very much, sir. Any other debate to be heard this morning? If not, motion on the floor to accept the standing rules with the amendment of Rule 11, changing it from discussion of three minutes per speaker, fifteen minutes total, to five minutes per speaker and unlimited individual participation.

All those in favor please signify by saying "aye"?

THE DELEGATES: Aye.

MR. HANNAH: Those opposed "no."

THE DELEGATES: No.

MR. HANNAH: Chair rules have that standing rules have been adopted with the amendment as stated.

We'll move to item one as it appears on your agenda from yesterday, referred to as a Commission progress report, convention processes, and plan for the post-convention activities of the Commission.

I'll look to my fellow Commissioners at this point. Would you all be willing for me to simply give an overview of where we are with this and either of my fellow Commissioners wish to speak to this issue? Charlie.

MR. GOURD: Move forward.

MR. HANNAH: Then I will make brief remarks to give you a report of the Commission. During last night's informal discussion here, and I want to thank you all very much for the opportunity for us to set aside such a formal environment as the Constitution Convention and for us to have what I think is a cultural core value of ours, and that was some good discussion last evening.

I left here thinking that there is either sixty-plus people that did not sleep well last night or that they slept very soundly. I'm uncertain which category that you all may have fallen into, and I'm somewhat uncertain as to which category that I fall into this morning.

I will tell you in broad recap, once again, that we are here based on the provision of the 1975 Constitution that required the question being placed before the Cherokee voters twenty years hence, thus, 1995, if, in fact, the Constitutional Convention should be called.

That question was placed on the ballot in 1995, and it was unanimously passed by the voters of the Cherokee Nation. For reasons unknown to the Commission or to the individuals here, the seating of a Commission to actually move through the development of the Constitutional Convention process was not envisioned until March of, apparently, of 1998. Due to various discussions by various groups within the Tribe, Tribal administration, the actual acceptance of empowering legislation to form that Commission was not passed until late in July with the seating of the Commission in August of last year.

As you have heard here before, and once again in recap, there were two Commissioners appointed by each of the three branches of government from the Cherokee Nation. Those Commissioners would, in fact, elect a seventh, George Underwood, our convention secretary was selected as that seventh individual.

We have moved through, under the guise of the guidelines of the enabling legislation to hold a series of public hearings across, not only the fourteen counties within the historic boundaries of the Cherokee Nation, but also of those of our Cherokee

family living beyond the boundaries of the Nation, as well as the boundaries of the state of Oklahoma.

Now, that process initiated in this room in September of 1998. It has progressed over many different locations in each of -- virtually each of the districts of the Nation, as well as in Houston, Dallas, state of Kansas, also two locations in the state of California.

There have been a number of items posted on the Internet. We have struggled to provide progress reports to the printed media. And we were about the process of assembling the information obtained at these public hearings to build a revised Constitution to place before this body for consideration, and to orchestrate this convention. And we've done so through the delegate selection process, which you all are aware of, that there were effectively three different groups of delegates identified.

First off, a grouping of twenty-four that were selected by three branches of government; a second grouping of twenty-four selected by the Commission from the population of those citizens who gave oral and written testimony during the public hearing process; and then the final group was selected at lot, by draw for seeking a pattern of fairness, once again, from the population of citizens who have submitted oral or written testimony. The remaining delegates, of course, were identified of the seven Commissioners that made up the Constitutional Convention Commission.

We are here in Tahlequah. And if we are about the process of generating any -- and as the language says, revisions, changes --

MR. KEEN, JR.: Straight out of the Constitution, it's "amendments, alterations, revisions or new Constitution."

MR. HANNAH: If any of those items were to emanate from this convention over the next two days, then that document would be prepared in final form and taken to the Election Commission where our date is -- Charlie, April the 15th?

MR. GOURD: 15th.

MR. HANNAH: That it would need to be in final form on a ballot to be placed before the voters of the Cherokee Nation during our general election of May 22nd, 1999, somewhere between, if we were to bring a document or the items listed out of this convention, between tomorrow and the May 22nd process, due to the clause that is in our 1975 Constitution, which requires approval by the President of the United States or his designee, an attempt at placing whatever we generate as a document before the federal government for their review and approval, would, in fact, still be binding on this convention.

Now, as Chairman Gourd stated yesterday, we have had a series of interesting conversations with the Bureau of Indian Affairs with regard to that particular process. Does it take place before the election is initiated, or does it take place after?

There's also been some discussion with regard to Bureau

of Indian Affairs protocol on whether this document should go to the area office in Muskogee or should go immediately to Washington, D.C.

It has been the surmised of the Commission at this point that by entering the phrase, "revised Constitution," that it would clearly put it to a path of review and approval at the Washington, D.C. level, thus, "X" out any type of complication of moving through an approval process or the BIA coming into a point of disagreement about who had the authority to actually review the document.

As you'll see later this morning, as we move forward as a free and sovereign people to assert our sovereignty, that very phrase that is causing us to be about that behavior, I think, will be brought to question before this particular body. We need to know, though, that it is part of our Constitution, and as we heard from our scholars yesterday, not necessarily a requirement from the federal government, but a requirement that we have placed upon ourselves and did so in 1975.

I look to my fellow Commissioners and ask, are there any additional items that we would give by way of report of the progress of this Commission? Charlie?

MR. GOURD: (Inaudible)

MR. HANNAH: Luella, can you think of anything that you would add to our progress report on the Commission of our activities?

MS. COON: Only that we just really worked hard, and it's just getting going fired up, and we're really pleased with it.

MR. HANNAH: We need to be about the business of keeping those words true, Luella. Thank you. Yes, ma'am.

MS. MEREDITH: Mary Ellen Meredith, Oklahoma City. Could you give us a little bit of the background about why you all decided to come up with a whole new Constitution, rather than dealing with amendments that were suggested?

MR. HANNAH: The -- I'll also -- Charlie, would you speak to that?

MS. MEREDITH: Or a revised Constitution.

MR. GOURD: As we mentioned yesterday, the primary reason to go through it with a revised Constitution, rather than having individual amendments placed before a vote of the people involves two things.

Number one, by the time we went through the forty-four, almost fifty-plus individual amendments, to go through and the convention could approve those, in talking with the people who work for the Election Service on printing and formatting the ballot, that ballot alone would be over six pages long, front and back, three columns. So that's just a logistical problem and could get very expensive if the people were to vote individually on every amendment.

The greater concern, as Chairman Hannah just pointed out, is the lack of clarity on protocol and procedure within the Department of Interior, the Bureau of Indian Affairs on line item

authorities, to sign on behalf of the President. And the Constitution says, no amendments whatsoever shall be approved without the signature of the President or his authorized representative.

There is a protocol, a line item authority, delegation from the central office to the area director who can sign on behalf of the President for individual amendments. If it is to be a revised Constitution, then that authority remains in the central office of the Bureau in Washington.

So our thoughts on this was to promote a revised or a new Constitution so that it gets to the most clear level line authority.

We have sent a letter requesting a meeting with the Secretary of the Interior, the Assistant Secretary, to define the protocols for presenting them with the constitutional changes, revisions, alterations, or amendments that comes from this convention so that we've clearly defined the protocols and the time frame under which they have to respond, so that there will not be a question.

We're suggesting they have to respond within thirty days because there's one amendment that's been floating around since the last election, and nobody seems to know what happened to it. So our thinking is, let's not get involved in the line item authority, the protocols within the Department of Interior, but to define the responsible party who will then come back to and respond to the Cherokee people when we have this document placed before them.

Any questions? Does that answer your question?

MS. MEREDITH: Somewhat.

MR. GOURD: Well, either the area director, can we go with individual amendments, or it's the whole thing.

MS. MEREDITH: I understand all of that. What I think I was trying to get back to was an earlier point where you had suggested amendments and then had come up with forty or fifty of them. I wasn't sure where the forty or fifty came from and implied the decision was made to do a revised Constitution, rather than narrowing down the suggested amendments and present those.

MR. GOURD: Mr. Keen.

MR. KEEN, JR.: I'd like to speak to that, ma'am. As we went through all the suggestions that we heard at the public hearings, we started out with a very short list, and it was concepts, general concepts. As we continued through the process, that list grew longer and longer and longer, and many of these concepts started to coalesce into more broader concepts.

It simply became a serious question of, if we try to approach this through simple amendments, we would wind up with literally, maybe twenty amendments on the ballot. We felt like that would not only be confusing to the voters, but they could also be contradictory.

In other words, there would be no guarantee that we would wind up with a document that we could approve. This amendment disapproved this next one. There was no guarantee that we could wind up with a document that would actually be functional. It may

actually contain a conflict in it.

Plus, there were some other considerations. Along with continuity, it is to clean up the obsolete language that appears in the '75 document. There is a lot of implementing language that simply has served its purpose, no longer needs to be there. There's some inconsistent terminology in the '75 Constitution.

For example, parts of the Constitution describes the members of this Tribe as Tribal members, other parts describes them as citizens. Certain parts of the Constitution describe a voter as a registered voter, other parts of it describe that person as qualified voter. Now, is there any difference? I don't know, but I know it's inconsistent language.

So these are the types of things that we went through and thought about. It finally became apparent to us that the only logical way to proceed was to take the '75 document and attempt to simply revise it, leave on all the language that we didn't feel -- that we felt was still applicable, still viable, not obsolete, and simply incorporate our amendments, our proposed amendments into the existing document so we could have one document that we could read through coherently, that would make sense, that would not contain just obvious contradictions or problems, and it would flow and become a functional document.

So that's the way we -- the manner in which we chose to proceed.

MS. MEREDITH: Thank you.

MR. HANNAH: Mr. Baker.

MR. BILL BAKER: Point of personal privilege. I think it was an overwhelming majority of this body that had the consensus last night that we would open this meeting in prayer. If the Chair would take this as a recommendation, I would appreciate it.

MR. HANNAH: And that is well taken. We shall be about that business at this particular time.

MR. POTEETE: Mr. Sanders is in the back.

MR. HANNAH: Mr. Sanders. Mr. Sanders, would you open our proceedings today with a word of prayer?

MR. SANDERS: (prayer)

MR. HANNAH: Are there any other questions from the floor with regard to the progress report from the Commission? Hearing none, we'll move to our agenda for the day.

Hearing no objections or without objection, the Chair would suspend Item Number 2 of the agenda. Now, this is the presentation of the draft revised Constitution endorsed by the Constitution Convention Commission. It is my intent for us to suspend that item and to move to Item 3 on your agenda.

Item Number 3 is the consideration of the draft revised Constitution by seriatim and by article and section. In consideration by article and section, open discussion, debate and appropriate votes as designated.

Now, I'll take point of privilege in saying, folks, this

is my suggestion for our ability to move forward based on our discussion last evening. If there is no objection to this, and we move to Item Number 3, then we will begin the process of the work that is before us. We'll have the ability for the Commission to bring its revised suggestions, and at that point in time, obviously, those of you who have amendments, those of you who have debate or discussion, we will be about the process of the convention.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: Delegate David Cornsilk. Can I have an amendment to the agenda that I would suggest to propose? Under Item 3, we are to vote on the amendments proposed by the Commission, and I would suggest that it might be more appropriate if we move that vote down below the presentations made by Keen, myself, and Julia Foster, so that we can vote on either or of those amendments to the Constitution.

MR. SMITH: I would so second. It appears to me very logical. We must hear all the proposals before entering deliberation and voting on any particular articles or suggestion on proposal.

MR. HANNAH: Thank you, gentlemen. There is a motion and a second. Is there debate? Hearing none, I'll call for the vote. Those --

MR. POTEETE: Would you clarify? Are we going to hear from everyone, or just from these three who are listed?

MR. HANNAH: These individuals that are listed, Troy, are individuals who, through the normal course of the protocol as set out by the Commission, sent proposals that in many ways were outside the scope of work looked at by the Commission.

In other words, you've all had an opportunity over the evening to read a great many of the details that have been supplied by these delegates. Those considerations will be taken up as agenda items.

Those of you who have, and I've talked with a number of you who have perhaps singular or a smaller group of amendments that you're wishing to bring, those would be heard during the consideration of each article and section that we will move through today.

Does that clarify that for you, sir?

MR. POTEETE: Thank you, yes.

MR. HANNAH: And so there is an amendment, or there is a motion, excuse me, on the floor, and it has been seconded. Is there further debate? And that amendment is that we would move the vote, roll call vote or voice vote with regard to the items that will be taken up under agenda Item Number 3 at the conclusion of agenda Item Number 3. Is that correct, gentlemen?

MR. KEEN, JR.: Mr. Chairman, Delegate Ralph Keen, Jr. I don't know if I completely understand what the motion is or what you're requesting of it. Under the seriatim process, the final vote on the document does come at the very end after each and

every section and article is approved independently. So in reference to that, what is your motion?

MR. CORNSILK: David Cornsilk, delegate. My motion is that if we vote on a section of the Constitution as proposed by the Commission and that will then become a part of our second vote, which will be the final product, then that's going to influence everybody in the way that they perceive any proposed amendments afterwards.

And we're talking about sections of the Constitution and persons who are wanting to present information about amendments they would like to make that are relative to what we're going to be talking about that you want to make.

So I just think that we ought to vote on all of them at the same time. After you present yours, they present theirs, then we'll vote on them.

MR. HANNAH: Mr. Hembree.

MR. HEMBREE: Delegate Hembree from Stilwell. Mr. Chairman, I believe this is the same debate and discussion we had yesterday on this item. I believe the body had passed that we would go on with voting each article as it came along. And the Chairman indulge me and explain to me again that the seriatim style of voting that we discussed yesterday, which I think is the same issue that we're discussing today.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Well, I will attempt to explain it to the best of my understanding. We have a parliamentarian here that may do a better job than me. As I understand it, the seriatim process is a manner to address any long document, whether it be bylaws or Constitution or anything else.

And the process is, if it presupposes that you have a starting document, a proposed document to start with. We have that.

And the process is you take up each item or -- you take the items by section or article, and you consider those one at a time. And you propose amendments to them, or you replace language in them, or you substitute language. So you have that option to do any of those things.

Then at the end of the debate for that section or article, a vote is taken, but it is not a final approval. It is just -- it's not an adoption, it is an approval pending the final vote. So once it's approved, that's set on the table, then you go to the next item, and you proceed through the entire document that way until you get to the end. And then the assembly still has the ability to back up and change things that it's already approved of, so you can have a consistent document.

And at that time, after all the final amendments and changes are made, then the entire document is adopted by the assembly. Now, that's my understanding. The complication we have through our agenda is we have proposals, separate proposals being submitted by certain delegates, and we will be -- obviously, we will be having delegates raise amendments and motions to replace

language. But I think that it will work within the framework on the seriatim process.

MR. HEMBREE: And that would, in effect, accomplish what the amendment, what the proposed amendment by Mr. Smith would ask to achieve?

MR. KEEN, JR.: Yeah. Mr. Cornsilk. I believe it would, sir, because a vote, even a vote to approve the language is not taken until all motions are expired and all debate is closed.

For example, Delegate John Keen, he's on the agenda; we present ours, on behalf of the Commission, we've presented our proposal. Mr. Keen gets up and makes his presentation, technically, you can correct me if I'm wrong, ma'am, but my understanding is his proposal would be in the manner of a motion to substitute his language for our language.

So if you're going to completely replace the language we're proposing, it would be by way of a motion to substitute. Okay? Then that would be considered, and it would either be voted up or voted down, and then we'd go on to the next person. Considered, up or down, go on to the next person, and et cetera, et cetera. Have I done a fair job of explaining it?

MR. CORNSILK: Yes, you have. And I withdraw my motion.

MS. SCOTT: Deborah Scott. So to get it real clear, we'll start with Preamble. Delegate Scott.

MR. HANNAH: Delegate Scott, you're recognized.

MS. SCOTT: So if we started with the Preamble, we're going to read one Preamble, vote it up and down, and read the next Preamble, vote it up and down, instead of reading all the Preambles and then going back and rating them?

MR. KEEN, JR.: No, ma'am. That's not true. We will read the first one, the first one would create the motion, and it would place the matter onto floor through debate. Through the debate process, if someone doesn't like a certain language in the Preamble that's being proposed, they can move to replace that language; strike it; strike and replace; amend it, if they wanted to add something to it; or if they don't like any of it, they can move to substitute the language. But it's all within the framework of that main motion.

And then at the end of all the deliberation, all the suggestions, then we take a vote to approve the language as amended or as substituted or however it winds up.

MS. SCOTT: So if there are three Preambles on the floor, so how do we -- and we like the concepts in the third Preamble, but not the first Preamble, so we have to go through the layer to get to the third Preamble?

MR. KEEN, JR.: Well, unless those proposals are tabled as we go. We don't have to vote on them as they're raised. If there's a motion to table that one and we want to hear another one, we can raise that one, go through that debate, table that one, go to another one.

MS. SCOTT: So the option to table it if we don't --

MR. KEEN, JR.: Absolutely.

MR. SMITH: It appears to me the fatal flaw with this process is that your recommendation omits certain provisions of the existing Constitution. For example, runoff with the Chief. So when we use that as a guideline, we're in essence accepting your format and not addressing clearly what is in our present Constitution.

I would suggest a better manner is take our present Constitution as a guideline, go article by article, allow the Commission to propose their recommendations, and let the other delegates propose their amendments, and not accept as this being the document that we're here to approve or disapprove. It should be in the posture of a recommendation, not the plan that is predrawn, and we're here to approve or disapprove.

MR. HANNAH: Thank you, Mr. Smith. I believe that your remarks have merit in that, once again, by way of background information from the Commission, there are certain sections of the 1975 Constitution that we did not initiate change in, either for rationale that there were no discussion raised in our public hearings, or it was not in conflict or contradictory to the revisions that we were preparing.

So, therefore, in essence, it is as though that the Commission has made a recommendation with regard to those sections that are not addressed, and that is that there is no recommendation.

So if it would please the delegates, we could, in fact, move through the entire of the Constitution article and section, and as far as presentation of amendment from the standpoint of the Commission, it would simply be that there would be no change.

Do we have a motion on the floor? He withdrew his. Did you not, Mr. Cornsilk?

MR. CORNSILK: Yes, I did. I would like to make another proposal to change the agenda. That is to remove my portion of the agenda. I wish to be stricken from there, and throw my support with John Keen, and I'll move that when he speaks.

MR. HANNAH: We have a motion to strike the proposal by Delegate David Cornsilk. Do I hear a second?

MR. HEMBREE: Second.

MR. HANNAH: Debate? All those in favor signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed "no."

THE DELEGATES: (no response)

MR. HANNAH: Motion carries. Proposal by Delegate David Cornsilk is stricken from Item Number 3.

MR. McDANIEL: May I say something just before you restart?

MR. HANNAH: My good friend from Muskogee, one moment, sir. You are recognized.

MR. MULLON: Delegate David Mullon. I would move that we proceed the very way that you proposed just before Mr. Cornsilk's motion to strike his recommendation. Indeed, if we proceed article by article, section by section through our existing, and then the different versions that are proposed be brought up in that Constitution.

MR. HANNAH: Motion is on the floor to proceed with the discussion of the revisions of this Constitution by this delegation by article and by section. That has been seconded. Is there debate? Hearing none. All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed "no."

THE DELEGATES: (no response)

MR. HANNAH: And the item is set, and we will move to the order of day. My good friend from Muskogee is recognized.

MR. McDANIEL: I'm not a lawyer. I don't know how many lawyers are in this room, but you could put your language in your printing, well, put it in plain English, that's what I'm trying to say.

MR. HANNAH: Thank you, sir.

MR. McDANIEL: Instead of expo facto, or whatever it is, well, put it in plain English.

MR. HANNAH: Thank you. If you will yield the floor, we will be reminded as delegates that we may be writing a document that must, in fact, endure the legal rigors that it will face as it moves forward over the next period of time. But it is a document of the people, is it not, Dr. Gourd?

MR. GOURD: That's right.

MR. HANNAH: Therefore, it should be readable and understandable by the people.

Then let us prepare to be about the business. The Chair recognizes Mr. Gourd. Mr. Gourd, I am hopeful with the adjustments that we have made by our approach this morning that your first motion will be to consider the first article and first section of our Constitution.

MR. GOURD: Yes, sir. Mr. Chairman, I make a motion to approve beginning with the title that is before the delegates in their packet, and it was on the screen a minute ago, in the 1975 Constitution,

It says, "Constitution of Cherokee Nation of Oklahoma." We're proposing that the words "of Oklahoma" be stricken so that the title reads, "Constitution of the Cherokee Nation."

MR. HANNAH: We have a motion on the floor, which strikes with regard to the Preamble of the Constitution of the Cherokee Nation of Oklahoma, which strikes reference to --

MR. GOURD: Chairman, that's the title.

MR. HANNAH: Title, I'm sorry.

MR. KEEN, JR.: Mr. Chairman, Delegate Ralph

Keen. Since we've had this change in our agenda and the strategy in which we're going to proceed, we need to take a moment to try to get the original '75 Constitution up there, if that would please the delegates, so we can see that language and know exactly what we're talking about at all times. So it may take five minutes.

MR. HANNAH: Privilege of the Chair is to declare a five-minute recess. Do not leave the building or your seats. No. You may, in fact, get up and stretch here for awhile, but let's return here in five minutes, and we'll be ready to do the business of the day.

(recess taken)

MR. HANNAH: A few housekeeping rules before we get started with the day's business, ladies and gentlemen.

MR. UNDERWOOD: Mr. Chairman.

MR. HANNAH: Mr. Secretary.

MR. UNDERWOOD: We now have seventy-seven delegates for the quorum of thirty-nine; two-thirds majority would be fifty-two.

MR. KEEN, JR.: Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Delegate Ralph Keen. I would just like to know if there is going to be a cutoff point where we will no longer accept delegates for enrolling purposes.

MR. HANNAH: In the original protocol that had been published by the Commission, we had set a 10:00 a.m. cutoff for the seating of the delegates. It was our discussion and thought that obviously if delegates were to continue to arrive into tomorrow that it might be difficult for them to have an understanding or an appreciation for the work of this particular convention. So unless there is debate from the floor, I believe that we will continue under the rules as stated.

And with that, a few articles that I would like to bring up. Number one, unless you have particular special needs and you're exiting these doors, we're going to pull these doors to. So if you go out, you'll need to reenter via the second tier of doors at the back. Unless you have a special need and our deputies and the Sergeant at Arms will assist you in that.

Number two, food and drink, well, Northeastern State University says we are not supposed to have them here in this room.

I'm going to tell you that we probably number more than they do at this point, and I will ask that you be courteous with whatever you may have brought into this room. So if you brought it in, please make sure that you take it out.

I would also like to announce that Donna Gourd has been seated as the timer for our debate periods, and so she will be here with us. I've also been asked that those of you who may be in political status, in other words, those of you who are political candidates for a post within our Nation, some of you have worn political buttons, T-shirts or activities or whatever. We would ask that as a point of courtesy that you would remove those. We have

pitched this Commission, as well as this delegation, as an apolitical body, representative of the people, and we would just ask that you would do that by way of courtesy.

Moving back to the order of the day, we have a motion on the floor, and let's restate it. It is, in fact, to adopt language -- please do us the kind courtesy now that we have an audiovisual aid, let's move through your motion again, Mr. Gourd.

MR. GOURD: Mr. Chairman, Delegate Charles Gourd. I make a motion to approve language that has been endorsed by the Constitution Convention Commission in reference to the title of the Constitution of the Cherokee Nation that in the title that is on the screen, the words "of Oklahoma" be stricken.

MR. SMITH: So seconded.

MR. HANNAH: There's a motion on the floor to amend the title of the Constitution as presented to delete the words "of Oklahoma"; there is a second. Debate?

MR. McCREARY: Mr. Chairman.

MR. HANNAH: You are recognized, sir.

MR. McCREARY: Mr. Chairman, Ken McCreary, delegate. I rise in opposition of striking "of Oklahoma," due to the fact that I think we are, by doing so, we are saying that we are the Cherokee Nation, when, in fact, we are not the Cherokee Nation. We are Cherokee Nation of Oklahoma. Thank you.

MR. HANNAH: Thank you. Mr. Cornsilk.

MR. CORNSILK: Mr. Chairman, I rise in favor of that. I would like to point out to this body and to Mr. McCreary that we are the Cherokee Nation, that congress, the President, all of the other branches of government have recognized the Cherokee Nation as such, and also the judicial branch of the federal government. The Cherokee people recognize it as such and that we are not of Oklahoma, we are of the Cherokee people, and the representative body of that is the Cherokee Nation.

I also would like to point out that in the information that was given yesterday, we learned that there are governments that are dependent and we are an independent sovereign, the Eastern Band of Cherokee is a dependent sovereign based on a federal legislation to abandon independent sovereign, and, therefore, we are the Cherokee Nation.

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

MR. MULLON: Mr. Chairman, Delegate David Mullon. I rise in favor of the motion the striking of the words "of Oklahoma." I think like anybody who has ever had the privilege to serve the Cherokee Nation and be an employee of the Cherokee Nation as I was, from time to time and in certain kinds of documents that we had to have the full name of the Cherokee Nation on the document, it pained me every time to put "of Oklahoma" on that. There is no reason whatsoever to use the words "of Oklahoma" to distinguish us from the Eastern Bands of Cherokees or the United Keetoowah Band. There is absolutely no reason to do that. Thank you, Mr. Chairman.

MR. HANNAH: Thank you, sir. We've had two speakers to rise in favor of the motion. Mr. Smith, do you rise in favor or --

MR. SMITH: I rise in favor of it, sir. In 1839, the Cherokees, after the infamous Trail of Tears, executed an act of union between the old settlers and the Cherokee Nation Proper. We united the style and the title of that act of union was the Cherokee Nation. It has been carried forward in our 1839 Constitution and it's by misnomer that it appears in the title of the '75 Constitution. There has been no provision in the '75 Constitution to amend our name. Our name is and has been since 1839 and prior to that, in our 22 treaties, the Cherokee Nation, period.

MR. HEMBREE: Mr. Chairman.

MR. HANNAH: Do you rise in opposition?

MR. HEMBREE: No, sir, I move to call previous question motion on the floor.

DELEGATE: Second.

MR. HANNAH: There is a second. All those in favor, please signify. Well, let's restate. And the motion that is before us is to amend the language of the title of the 1975 Constitution to delete the phrase "of Oklahoma." There's a motion and a second on the floor.

MR. KEEN, JR.: Point of order.

MR. HANNAH: Please.

MR. KEEN, JR.: There is a motion pending on the floor to call the previous question, which requires a three-quarters vote, and if that passes, then it will be called the question. Two-thirds, I'm sorry.

MR. HANNAH: We have a motion on the floor to call the question and those in favor of that motion to call the question, please signify by raising your hands.

DELEGATES: (Indicating)

MR. HANNAH: Thank you. Those in opposition, please raise your hand.

DELEGATES: (Indicating)

MR. HANNAH: Chair will declare that motion passes; therefore, the question is before us at this time. The motion is to approve the -- or the motion is before us to delete the phrase "of Oklahoma" from the title of our Constitution. And there is a second on the floor.

And 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 Chair declares that that motion has been approved.

Now, ladies and gentlemen, point of privilege from the Chair. That didn't hurt, did it? Didn't hurt at all. Now, we're going to get into some items, as we move along, they're a little more complicated than "of Oklahoma." I confidently predict that.

But you saw the cadence that we utilized in the process. I know there are those of you out there who have worked long and hard on a lot of information, and I want to assure you that within the powers that I have, we will see to it that you are heard in debate here today.

Let's be about it. The Chair recognizes Dr. Gourd.

MR. GOURD: Mr. Chairman, I make a motion to approve the revised language provided by the Constitution Convention Commission to the Preamble to the Constitution. Our language would read:

"We, the people of the Cherokee Nation, in order to preserve our sovereignty, enrich our culture, achieve and maintain a desirable measure of prosperity, the blessings of freedom, acknowledging with humility and gratitude the goodness of the Sovereign Ruler of the Universe in permitting us so to do, and imploring his aid and guidance in its accomplishment do ordain and establish this Constitution for the government of the Cherokee Nation."

I would note that in the Preamble, we have moved the language -- we have added "our sovereignty," and the sentence following the term "Nation" as used in this Constitution is the same as "Tribe" has been relocated to Article I.

MR. HANNAH: There's a motion on the floor to --

DELEGATE: Second

MR. HANNAH: And there's a second. Debate?

You are recognized, sir.

MR. RUTLEDGE: Delegate Rutledge. I would move to amend the Preamble to add a paragraph preceding the suggested paragraph. I would add the paragraph to read:

A-ni-yun-we-ya, the Principal People, have worked and maintained its sovereignty through its government since time and memorial.

A-ni-yun-we-ya, has always maintained itself as a separate people with a distinct territory, a distinct language and culture, and a distinct political structure.

A-ni-yun-we-ya, believe that the power of the people forms the government, and the government serves the will of the people.

MR. HANNAH: Thank you, sir. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Debate? Sir.

MR. RUTLEDGE: I wanted to point out that I want to put this in because the a-ni-yun-we-ya, as I understood it, was our cultural name for our principal people. I want our culture reflected in the Constitution.

I would, of course, entertain that there are items and there are other interpretations of the correct word for the principal people, and if that is the case, I would entertain some suggestions.

The other part of this was that I want to put in the four

etiquettes of sovereignty into the Preamble from international law, which is being a separate people of the distinct territory, a distinct language and culture and a distinct political structure.

We are one of the few tribes in the Nation, other than perhaps the Navaho and a few others, who actually have all those elements together under international law, and we should put it in our Constitution just in case we ever need to use it in the future.

MR. HANNAH: Thank you, Mr. Rutledge. Debate regarding the amendment that is before us at this time. Those in favor.

Mr. Cornsilk, you rise in favor of the amendment?

MR. CORNSILK: I rise in opposition to a portion of the amendment. The term "a-ni-yun-we-ya," is whenever the Constitution is at any time made to translate into the Cherokee language, the Cherokee people's name will be listed in there as a-ni-yun-we-ya, and, therefore, it would be kind of redundant to put it in there in a continuous phonetic form. Thank you.

MR. HANNAH: Thank you. Any delegates that rise in support of the amendment that is before us?

MR. HEMBREE: Point of personal privilege. Explain to me, are there two amendments before this body at this time?

MR. HANNAH: There is one amendment that is before the body. There is a motion to endorse the Preamble as drawn by the Commission, and there is an amendment by Delegate Rutledge to supplant the language that he gave. And we are working on that amendment at this time.

Chair seeing no other discussion at this point, then we will bring question before us with regard to the amendment submitted by Mr. Rutledge. Mr. Secretary, do you have the ability to recall that for us?

MR. UNDERWOOD: No.

MR. HANNAH: No, you do not.

MR. UNDERWOOD: We have it in print.

MR. HANNAH: You have it in print form?

MR. BILL BAKER: Mr. Chairman, point of clarification.

MR. HANNAH: Mr. Baker.

MR. BILL BAKER: On his amendment, I'm looking at his written documentation. Are you proposing that we stop with just what is underlined, or are you proposing to some of this other language that, saying goodbye to the "Sovereign Ruler" and that language as well?

MR. HANNAH: Please, Mr. Rutledge.

MR. RUTLEDGE: I tried to talk with some of other people who had amendments with the Preamble. They were more concerned with the second paragraph. And in deference to them, I decided I didn't care about the second paragraph prior to the first paragraph here. I wanted to put my paragraph ahead of this one, and in deference to them, I'll leave the second paragraph alone. So,

no, I've stopped before the additional paragraph.

MR. HANNAH: Mr. Hook.

MR. HOOK: Point of clarification. Point of information, I'm not sure. On Mr. Cornsilk's point, did you agree to amend that to read "Cherokee" or retain it as is here?

MR. HANNAH: Your question then to Mr. Rutledge is once again -- I am so sorry.

MR. HOOK: Did he agree to Mr. Cornsilk's suggest to retain "Cherokee" because of translation?

MR. HANNAH: He did not. Clarify that point. You are recognized, sir.

MR. CROUCH: Delegate Crouch with a question for Mr. Rutledge. Perhaps by way of substitution. I appreciate your language you're trying to place in our Constitution, terms that relate to international law and sovereignty of people. And also the issue of origin of power coming from the community as opposed to some sovereign appointing the government.

I know you have a whole series of sort of personal rights statements, and I would not be at all interested in supporting a long list of personal rights statements in our Constitution. I might be interested in supporting the issue of the phrase "the government," power the government derives from the people as part of a Preamble for the Constitution in lieu of all that other detail.

Secondly, I ask, if I have the Chair's permission for two questions, a question to Mr. Keen on the Commission, concerning the history of the Preamble that we now have. Is it new from the '76 language? I apologize, I have not read the '89, the '39 Constitution and don't know what terminology it might have used.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Yes, sir. In our proposed version, if that's what your inquiry is, it is substantially the same language that appears before you on the screen, with three exceptions. The words "our sovereignty" was added to the opening sentence; the word "tribal culture" was replaced with the word "culture"; and in the last sentence, which states, "the termination as used in this Constitution," that sentence was relocated into Article I.

So other than that, those minor word changes, it is the same.

MR. CROUCH: My question must not have been clear. How does the '76 language relate to the 1839 language?

MR. KEEN, JR.: Sir, I have a copy of that if you would like to look at it.

MR. HANNAH: I think one has been provided. Sir, do you have a comment?

MR. ALBERTY: Yeah. I wrote that Preamble of the '75.

MR. HANNAH: We have the author of the Preamble of 1975 here with us.

(applause)

MR. ALBERTY: Dewey Alberty, delegate. The thinking was, I think as an attorney, Earl Boyd Pierce was asked to do it. He said, "Let Dewey do it." I said, "I'll do it," just volunteered.

But the thing was, I wanted to get the spirit, incorporate that of the 1839. And as much as I could, did that, and inserted the wording of "to maintain or achieve a desirable measure of prosperity," realizing at that time a lot of our community reps represented communities who were in dire poverty and needed to achieve that desirable measure of prosperity, whatever that would be. So that was the thinking on that.

MR. HANNAH: Mr. Alberty, thank you very much for those remarks. We appreciate you stepping forward. You are recognized.

MR. MacLEMORE: Mr. Chairman, Frank MacLemore, delegate. I speak in behalf on support of this from a different perspective. Those of us who are familiar with the language and speak the language feel like this is a great added feature, and doing much like many of the other tribes are doing throughout the Nation, and that is getting back to our original reference, our name. So I speak in support of this.

MR. HANNAH: Thank you, sir. Any other debate at this time? We move back to the question that is before us.

MR. DOWNING: Carl Downing. I think that my comments deal mostly with housekeeping kinds of things. In the second paragraph where it says, "We, the, the people," there's two "the's" there. One of them should be marked out.

And the other one is down near the end of that paragraph where the Supreme Being is referred to as His or Him. This comes out of a Christian Judeo background. I just call that to your attention. I'm not making any suggestion one way or the other.

MR. HANNAH: Thank you very much, sir. Yes, we are on the amendment now at this time. Closing debate and moving to the question. The amendment is before this body and has been seconded that the -- Frank, help us with the pronunciation. We want to do this right. And between Ed Jumper and Luella Coon, my Cherokee always begins to be a little questionable. Pronounce the word for us.

MR. MacLEMORE: A-ni-yun-we-ya. I want to ask a question also. Two questions.

MR. HANNAH: Frank, I'm going to hold you on those questions. We're going to close debate. We're going to move on this piece. And simply by way of privilege of the Chair, I would ask, do you have this piece there? Do you have this man's amendment? So that you will do justice of this phrase, will you read this paragraph for us?

MR. MacLEMORE: The first one?

MR. HANNAH: Yes. It's the only one that we have an amendment that's before us.

MR. MacLEMORE: "A-ni-yun-we-ya, Principal

people, have in order to maintain its sovereignty through its governments in times of memorial, the a-ni-yun-we-ya have maintained itself as a separate people with the distinct territory, a distinct language and culture, a distinct political structure. The a-ni-yun-we-ya believe that the power of the people from the government and the government serves at the will of the people."

MR. HANNAH: Thank you, Frank. That is the motion that's before us; it has been seconded. All of those in the favor of the amendment, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed say "no."

THE DELEGATES: No.

MR. HANNAH: Chair declares that the noes have it. The amendment did not pass. We are back to the motion that is on the floor, for the Preamble that has been submitted into motion by Dr. Gourd.

MR. SCOTT: Mr. Chairman.

MR. HANNAH: You are recognized, sir.

MR. SCOTT: I am Delegate Owen Scott, and in the Preamble, the third line, as it appears up there, beginning, "the blessings on freedom," I recommend deleting the word "freedom." We are all Americans and we have the assurance of the Bill of Rights and all of that to protect our freedoms. I don't think we look to the Cherokee Nation for that aspect of our lives. What I think we look for and I would like to add this as --

MR. HANNAH: Mr. Scott, please make this in the form of a motion to amend.

MR. SCOTT: Okay. Delete the word "freedom" after the words "the blessings of." So the phrase will read, "the blessings of sharing in the communion of our tribal heritage." I think that is more what we are about here in this is trying to get a communion, a unity among our group, and I think that's what our Constitution should be aiming for. Our freedom is already --

MR. HANNAH: Thank you, Mr. Scott. Motion on the floor; is there a second? Do I hear a second? Do I hear a second? Chair hearing no second, the amendment is not brought before the delegation. We return, once again, to the motion that is before us, the motion by Mr. Gourd. It has been seconded. I will entertain debate.

MS. SCOTT: Deborah Scott, delegate. I would like to move that we strike the word "his" after in the fifth line, "imploring aid and guidance in its accomplishments," to make this more gender relevant as we've done throughout the rest of the document.

DELEGATE: Second.

MR. HANNAH: Motion on the floor to strike the word "his." I see a second. Debate is open at this time.

MR. CORNSILK: Mr. Chairman.

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

MR. CORNSILK: Delegate David Cornsilk. I rise in opposition of that. The term is a general term used in

constitutional law.

MR. HANNAH: Thank you very much, Mr. Cornsilk.

I will, once again, remind the delegates, if you can make your way to a microphone, it will be very helpful for us, and please remember to state your name. I want this to be a part of the record.

Mr. Poteete, you are recognized.

MR. POTEETE: I also rise in opposition. I think that these kind of particularities carry political correctness to a point beyond which most Cherokees want to go in the community.

I think it's almost -- I'll stop short of that. Thank you.

MR. HANNAH: Thank you very much, sir. Dr. Hook, you are recognized.

MR. HOOK: Jonathan Hook. I speak in favor of the proposed amendment to change the wording. Several places in here, one other place specifically, states that we are going to modify all language, make it gender neutral. And also I would assert that this is a part of Judeo-Christian heritage and not part of Cherokee heritage, so I also support the amendment.

MR. HANNAH: Thank you very much. You are recognized, sir.

MR. DOWNING: Carl Downing.

MR. HANNAH: You speak in favor or in opposition?

MR. DOWNING: I speak in favor of this amendment. I think that we have many carryovers from a male dominated society, and specifically if we speak of it in terms of having a legal term, a male dominated profession. It seems to me that where we have an opportunity to render something gender neutral without causing any change in the meaning or any great problem for anyone, that we should do so.

MR. HANNAH: Do other delegates rise in opposition? Do any other delegates rise in opposition?

MR. KEEN, JR.: Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Point of information. I would like to have the substitute language restated, please.

MR. HANNAH: Our delegate from Houston, will you please approach the microphone and restate your amendment? Thank you, ma'am.

MS. SCOTT: Deborah Scott. The proposal is to delete the word "his" and the line would read, "and imploring aid and guidance in its accomplishment."

MR. HANNAH: Deletion of the word "his."  
Clarification?

MS. HAMMONS: Mr. Chairman.

MR. HANNAH: Yes, ma'am.

MS. HAMMONS: Diane Hammons, delegate from Tahlequah. I would ask that our delegate, Ms. Scott, you might amend that to, "and imploring the Ruler's aid and guidance in its accomplishments." That renders it gender neutral. I'm an old

English major; that puts our subject back in there, so we're not in --

MR. HANNAH: Subjects and verbs, what a concept.

MS. SCOTT: I absolutely agree.

MR. HANNAH: So we now have a -- you are restating your amendment.

MS. SCOTT: "And imploring the Sovereign Ruler's aid and guidance in its accomplishment."

MR. HANNAH: Very well. I assume that whoever seconded your amendment still stands? Hearing no opposition, then we are still about debate. Mr. Keen, you are recognized.

MR. JOHN KEEN: Point of clarification. I don't understand what it is we're going to be voting on now. She just confused me again.

MR. HANNAH: We're going to clarify that for you. Remember, that was my deal with all of you last night. We don't do anything unless we know what we're doing.

First amendment was to strike the word "his." Now there has been a, quote, unquote, friendly amendment, and a transition of amendment. And what is before us now is to drop the word -- state it from there, Ms. Scott, nice and loud.

MS. SCOTT: The line will read: "and imploring the Sovereign Ruler of the Universe's aid and guidance in its accomplishments."

DELEGATE: Do that again.

MR. HANNAH: Yes, do that again, because you confused me on that one.

MS. SCOTT: The line will read: "and imploring the Sovereign Ruler's aid and guidance in its accomplishments."

MR. HANNAH: "Imploring the Sovereign Ruler."

MS. SCOTT: "Sovereign Ruler's aid and guidance."

MR. HANNAH: "Ruler's" possessive?

MS. SCOTT: Yes.

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

MR. MULLON: Delegate David Mullon. I would like to speak against that amendment. I think that --

MR. HANNAH: To the microphone. Please assist us, folks, and acknowledge, not just for our court reporter, but just for everyone in the room so we can hear what we're doing.

MR. MULLON: I apologize. Delegate David Mullon. I oppose that change. I think, in order to be politically correct, we're creating sort of an ugly sentence by repeating the words "Sovereign Ruler's," and it just seems wordy. And I don't think there's any kind of gender bias that is really being intended here.

But one other thing, if I could ask. We are all looking at a version of the Preamble of the current Constitution which is missing part of it. That which is up on the screen is not the Preamble as it, in fact, reads.

MR. HANNAH: We need to make sure that that is, in fact, correct.

MR. MULLON: I think if you look at the third line, at the far left, the word "prosperity," right after that, there is a whole phrase that has been left out.

MR. HANNAH: Okay. I will read from the Preamble of the Constitution of the Cherokee Nation of Oklahoma. It says that -- and you all read along with me on the screen. Let's make sure that we have what we're supposed to have up here.

"We, the people of the Cherokee Nation, in order to preserve and enrich our tribal culture, achieve and maintain a desirable measure of prosperity, ensure tranquility and to secure to ourselves and our posterity the blessings of freedom, acknowledging with humility and gratitude the goodness of the Sovereign Ruler of the Universe, and permitting us so to do and imploring his aid and guidance in his accomplishment to ordain and establish this Constitution for the government of the Cherokee Nation."

The term Nation as used in this Constitution is the same as Tribe.

Okay. I need some feedback here. Did you read along with me? Is that what we have on the screen? Mr. Viles.

MR. VILES, JR.: I was only going to make the distinction between the words "prosperity" and "posterity," and I see now that it looks good. Thank you.

THE DELEGATES: "To secure to ourselves."

MR. JOHN KEEN: Mr. Chairman, delegate John Keen.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: I have a motion to amend the motion on the floor, simply to read "his/her" to make it more gender neutral.

MR. HANNAH: There's a motion on the floor to amend; is there a second?

Hearing no second, the motion is not placed in consideration. Mr. Keen.

MR. KEEN, JR.: Point of information for the delegates. As far as what we see on the screen here, I really have no explanation for that omission in the language, but if you would please help me as we go through this make sure that this is, in fact, the accurate language from the Constitution. That should have been the right language to begin with, so just help me monitor that.

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

MR. HATHAWAY: Mr. Chairman, possibly we could rearrange the language to avoid that entire clause where it is by redrafting it to refer to, "the goodness, aid and guidance of the Sovereign Ruler of the Universe," and then we wouldn't need to figure out whether to refer to the Ruler his or her. We would put that portion of the sentence in the other areas where we are aiding or getting aid and assistance from our Creator.

MR. HANNAH: We'll check with Ms. Scott and see

if you will accept that as an amendment to your motion.

MS. SCOTT: That, I will accept.

MR. HANNAH: Sir, Mr. Hathaway, we're going to ask you to repeat this, and the Secretary is going to record this language so that we would have it appropriately.

MR. HATHAWAY: To insert after, "the goodness, aid and guidance," and then continue as it reads before, "of the Sovereign Ruler of the Universe." And then we would be able to delete, "permitting us to do so," and then delete the clause that says, "and imploring his aid and guidance and its accomplishments," so it would read, "to do so, do ordain and establish."

MR. HANNAH: We have a friendly amendment that has been accepted by its original delegate; the second stands. And you are recognized, sir.

MR. DOWNING: Carl Downing. I have a two-point question. One, see if I'm right about this. This is the Preamble as it exists now on the Cherokee Constitution?

MR. HANNAH: With the exception of a Scribner's error, yes.

MR. DOWNING: Yeah, right. Then this revised Constitution has Preamble that we're trying to get to?

MR. HANNAH: Yes, sir.

MR. DOWNING: Why are we correcting the old one when we should be correcting the new one?

MR. HANNAH: Because we, in fact, have a motion on the floor of Dr. Gourd that places the revision, and there has been a series of amendments to that motion, and that's what we are considering.

MR. DOWNING: This then -- this is the Preamble that is in front of us, is it not, on the motion of the revised Constitution?

MR. HANNAH: Yes, sir, it is.

MR. DOWNING: Trust me.

MR. HANNAH: Yeah, I trust you. I apologize for being blind here. Dr. Gourd has that motion on the floor, it has been seconded, but we are, in fact, entertaining amendments to the revision.

MR. DOWNING: But we're amending the old Preamble.

MR. HANNAH: You raise an interesting point. Jack Baker is recognized.

MR. JACK BAKER: Delegate Baker, thank you. What you have on the screen and have changed to is the '75 Constitution Preamble.

MR. HANNAH: That's correct.

MR. JACK BAKER: But it is not what Dr. Gourd read.

MR. HANNAH: That is correct.

MR. JACK BAKER: So we're not revising what he read initially; is that correct?

MR. HANNAH: That is correct. And we are, by way of this discussion, moving through our current Constitution and obviously the Commission is moving with their revised Constitution by way of motion, which is getting us into this debate period.

Mr. Keen, do you have a comment to make?

MR. KEEN, JR.: Yes, I do. My understanding is the motion on the floor is to adopt the language as proposed by the Commission, and that motion still stands. That's the main motion. All of these other motions are to amend that approved language, which, if adopted, would replace the language you see behind you.

MR. HATHAWAY: Mr. Chairman.

MR. HANNAH: Mr. Hathaway.

MR. HATHAWAY: I wonder if the author of the amendment which previously accepted a friendly amendment, if it is in order to accept an additional friendly amendment to re-insert the language from the 1975 Preamble as it appears on the screen, in addition to the last revision which was approved. If that isn't in order, if you could tell me how we could do that, I would like to do it.

MR. HANNAH: That would be not at this time.

MR. HATHAWAY: That would be my intention to put that before as a substitute, so we would be adopting as we revise with the last amendment the text including the phrase "to ensure tranquility and to secure," et cetera, into Dr. Gourd's proposal.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: Mr. Chairman, point of information. I would just like to clarify for my own mind that the reason that we have the 1975 Constitution before us is Mr. Mullon's original motion early this morning, that we would start from that point, and then the Constitution Commission would then present their amendment, and then we would present our amendments. Is that the cascade in which we are flowing?

MR. HANNAH: Yes, sir. That is the cascade or the rapids of which we are flying at this time. Don't be standing up in the boat. Everyone stay seated here.

Mr. Hembree, you are recognized.

MR. HEMBREE: Yes, Mr. Chairman, I'm Delegate Hembree from Stilwell. I move the previous question to close debate on Ms. Scott's amendment.

DELEGATE: Second.

MR. HANNAH: Motion to close debate. All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: All opposed "no." We have closed debate, and the amendment of Ms. Scott is before us at this time. And that motions is -- Mr. Secretary, do you have that for us?

MR. UNDERWOOD: I'm not sure about the amendment Mr. Hathaway made.

MR. HANNAH: We're going back to the original amendment that was accepted by Ms. Scott that Mr. Hathaway

indicated, and we'll either have him to stand and to repeat it because I'm sure that he can.

MR. CORNSILK: May I make a recommendation that the two of them go outside and write that and bring it back to us?

MR. HANNAH: In the essence of time, I think we can do it right here. Mr. Hathaway, you need to restate your --

MR. HATHAWAY: I did write it, but I already gave it away. If I could get it back. Can I have back what I just gave?

MR. HANNAH: Ms. Scott, I need for you to pay attention because this is, in fact, your amendment that Mr. Hathaway is writing.

MS. SCOTT: I'm there; I'm with you.

MR. HATHAWAY: I did write it on -- not on the proper form, Mr. Chairman. Yes, I scribbled it. Would you like for me to transfer that in lawyerese?

MR. HANNAH: I think what you have -- yeah, let's have him to do that. I took one look at that and thought, I'm not going there; I'm not doing that.

MR. HATHAWAY: Mr. Chairman, should I read the Preamble as amended, as I understand it to be or the text of the amendment?

MR. HANNAH: Actually I think it would be appropriate for you to read the text of your amendment, but for clarification of this group, why don't you read the entirety of it and give us a notation of the amendment that Ms. Scott is making at this time.

MR. HATHAWAY: If it isn't correct, please correct me.

"We, the people of the Cherokee Nation, in order to preserve our sovereignty, enrich our culture, achieve and maintain a desirable measure of prosperity, the blessings of freedom, acknowledging with humility and gratitude the goodness, aid and guidance of the Sovereign Ruler of the Universe from preventing us to do so, do ordain and establish this Constitution for the government of the Cherokee Nation."

The amendment then would be to insert after the word "goodness, aid and guidance," and to delete from and including the comma after "so to do, which I read incorrectly. Delete the words, comma, "and imploring his aid and guidance in its accomplishment," end of deletion.

MR. HANNAH: Ms. Scott, is that, in fact --

MS. SCOTT: Yes. He's got one "do," and you've got to take out one "do."

MR. HATHAWAY: Yes.

MR. HANNAH: And take out one "do."

MR. HATHAWAY: Yes. I'm sorry, the brackets, so we won't have "do do" in the middle of the Preamble.

MR. HANNAH: He really is Charlie Hathaway's son.

We have an amendment before us, and it has been seconded. All of those in favor of the amendment, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed say "no."

THE DELEGATES: No.

MR. HANNAH: And the amendment carries.

MR. CORNSILK: Mr. Chairman.

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

MR. CORNSILK: I challenge that, and would like to have a -- whatever that's called.

MR. HANNAH: Whatever that's called. It's called a hand vote, is what we're going to have here.

All of those in favor of the amendment as presented, please raise your hand.

THE DELEGATES: (Indicating)

MR. HANNAH: Thank you. Those opposed, please raise your hand.

THE DELEGATES: (Indicating)

MR. HANNAH: Fifty in favor; seventeen opposed. Motion carries.

DELEGATE: Mr. Chairman.

MR. HANNAH: Discrepancy in the count. The Chair, and please indulge on this, folks, we're going to get these details worked out. This is about the business that we're about. We'll get in the flow of this, I promise.

Those in favor of the amendment that's before us at this time, please signify by the raising of your hand. I've asked the Secretary and the Vice-Chair to conduct count. The amendment that is before us at this time, the one of Ms. Scott, which was read by Mr. Hathaway, for the language that has been presented as an amendment, and has been seconded.

And those in favor of that amendment, please raise your hand.

DELEGATE: I thought we just voted.

DELEGATE: We're doing it again.

MR. HANNAH: We're doing -- if you're wondering, we're doing this again because we had a discrepancy in the count, okay?

THE DELEGATES: (Indicating)

MR. HANNAH: Thank you very much. Those opposed, please raise your hands.

THE DELEGATES: (Indicating)

MR. HANNAH: The numbers are, gentlemen? Eighteen opposed; fifty-three in favor. Fifty-two required for two-thirds majority of passage; therefore, the amendment passes. You are recognized.

MR. CROUCH: Mr. Chairman, I move to insert the Cherokee word, which I'm sure I won't pronounce very well, "a-ni-yun-we-ya," behind the "we" and before the "people of the

Cherokee Nation." I would point out that it's standard legalese to have a certain amount of redundancy, such as breaking and entering, aiding and abetting.

That comes from the Norman period of conquest of England in which they had a Latin-made word and an English-made word one side by side. So it would simply read, "We, a-ni-yun-we-ya, the people of the Cherokee Nation in order to preserve."

MR. KEEN, JR.: Point of order, sir.

MR. HANNAH: Point of order.

MR. KEEN, JR.: Point of order, sir. Are you submitting an amendment to the question on the floor?

MR. CROUCH: Yes.

MR. HANNAH: There's an amendment before us for the insertion of the word "a-ni-yun-we-ya." Is there a second?

MR. HOOK: Second.

THE DELEGATES: Second.

MR. HANNAH: There are several seconds. Mr. Cornsilk.

MR. CORNSILK: Mr. Chairman, David Cornsilk, delegate. I rise in opposition to that. The common usage of the term "a-ni-yun-we-ya" has now become "Indian" in the Cherokee language. It applies to Cherokees, but also applies to other Indians. The Cherokees also have referred to themselves as (Cherokee dialect), so I don't think that it's appropriate to insert that word.

MR. HANNAH: Anyone rise in favor of the amendment? Delegate Hathaway, would you please step to the front of room, please? Anyone rise in support of the -- Mr. Keen, you are recognized.

MR. JOHN KEEN: John Keen, delegate. I rise in support of the motion, as long as I'd like to have a fluent person that would be recognized by the delegates to clarify that for us. What -- maybe Mr. Jumper, the Commission's interpreter.

MR. HANNAH: Sergeant at Arms, would you ask Marion Jumper to step into the room, please?

Point well taken. Nothing like a room full of nonspeakers reciting over a word that we do not pronounce well.

Ed. For those of you who have not had the opportunity, this is Ed Jumper, who served as the interpreter of our Commission.

Ed, we have a motion before us for the inclusion of a word in our Constitution. There seems to be some debate about it. Can you give us the proper pronunciation and tell us, in fact, what the word means in the Cherokee dialogue?

MR. JUMPER: A-ni-yun-we-ya. The elders that formed this word and to this day refer to it as meaning "the principal people." I think that the -- all of you that are here, you're a unique selection of people, and I believe that's what the elders would respect is that we are still a principal people.

(Cherokee dialect) We would call ourselves Cherokees whereas the elders looked on us as a principal people.

(Cherokee dialect) Those of you that understand Cherokee, that's all I can tell you. And that's all that my grandmothers and my grandfathers have told me. And that's come down to the generation.

(Cherokee dialect) Is there anything else?

MR. HANNAH: Any other questions for Mr. Jumper to clarify this phrase? Thank you very much, Ed.

MR. H. CRITTENDEN: Sir.

MR. HANNAH: You're recognized, sir.

MR. H. CRITTENDEN: Yes, sir, I want to clarify that you're -- in the way of my understanding of this, "a-ni-yun-we-ya," we are speaking when we speak the word "a-ni-yun-we-ya," we are talking about Indian people. That could be your Navaho or any other tribe, in my understanding. The way I was taught Cherokee, meaning Cherokee, just like I said, "e-di-tsa-la-gi," that's Cherokee. If we want this entered as, "We, the people of the Cherokee," you'd have to put "tsa-la-gi" in there. E-di-tsa-la-gi; we, the Cherokee people.

MR. HANNAH: Please, do me a favor, my friend. Thank you for your comments. Please state your name for the record, please.

MR. H. CRITTENDEN: Hoover Crittenden.

MR. HANNAH: Mr. Crittenden, thank you.

MR. McDANIEL: I'd like to say something.

MR. HANNAH: Delegate from Muskogee, yes, sir.

MR. McDANIEL: McDaniel from Muskogee. About this Cherokee language being inserted in the Constitution, I don't have any objection to that. But what I'd like to see is an explanation of the word after each use of each Cherokee language. I know there's full blood Cherokees that don't use the Cherokee language. I'm not a full blood, I'm almost, but I'm not familiar with the Cherokee written language. And printing of the Cherokee words in the Constitution is appropriate.

MR. HANNAH: Fine delegate, thank you for your remarks.

MR. McDANIEL: A lot of people don't know what those words mean.

MR. HANNAH: And that is what we're endeavoring to ensure here at this time. Thank you for your remarks. Any other speakers for or against the amendment that's before us at this time?

In that case, we'll bring it to a close. We'll call for a vote. We have an amendment that is -- yes, ma'am.

MS. MASTERS: If we do have --

MR. HANNAH: Please stand and state your name, please, so we can hear you. Thank you, Billie. Billie Masters, you are recognized.

MS. MASTERS: If we do have the proper word now, Mr. Crouch, would you take that as a friendly amendment to assure that the right word is in there, meaning "Cherokee people"?

MR. CROUCH: I would suppose that the Style

Committee could correct our use of the Cherokee word for an English word that was inappropriate.

MR. HANNAH: Now, the Chair is confused as exactly where we are. We're back to your motion --

MR. CROUCH: We're back to my -- she asked me if there was some other word, would I agree, and I said, of course, I would; in fact, I think that's the real job of the Style Committee.

MR. HANNAH: So your amendment is to include the appropriate word?

MR. CROUCH: I think it is the word I chose.

MR. HANNAH: So your amendment still stands. You're recognized, sir.

MR. RAPER: My name is Mark Raper, delegate. We do have an ID, that is what we are. It's in this seal on this corner. So I would think that would be a good cross reference for the way -- for whatever we do. Because it's already there anyway for that Preamble. Cherokee Nation. And we've got a symbol here in tradition and modern language.

MR. HANNAH: Thank you for your comments, sir. We have a motion on the floor for the inclusion of the word "a-ni-yun-we-ya" within the Preamble. It has a second. Those in favor please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed "no."

DELEGATES: No.

MR. HANNAH: Noes have it. The amendment does not stand. We are back to the motion of Dr. Gourd. So at this time, we have the motion by Dr. Gourd amended by Ms. Scott of Houston. What am I seeing behind me here? I'm always fearful you all are doing things behind me here that I don't know about.

MR. KEEN, JR.: I'll explain. What we're attempting to do here is to put two screens up there, one containing the language of the original 1975 Constitution; the second one would contain the language of the question on the floor, the proposed replacement of it.

And as we go through and make these amendments, if the amendments pass, we can make that change as we go, so you can see what the product is. And then ultimately, if the question carries, then it will replace the original language. So that's the attempt here if we can work out the technicalities of it.

MR. HANNAH: I'll be so bold to ask you what your speculation is on time that you can put that forward?

MR. KEEN, JR.: We're almost there.

MR. HANNAH: We're almost there, okay.

MR. HATHAWAY: Point of information, Mr.

Chairman.

MR. HANNAH: Yes, sir, you are recognized.

MR. HATHAWAY: Do we have in Dr. Gourd's proposal the language that was -- I assume inadvertently omitted from the -- or whether it was or not from the '75 Constitution

concerning "tranquility." Maybe there was a reason "tranquility" was taken out.

MR. HANNAH: The good delegate has given us an endorphin release, and I am thankful for it.

MR. GOURD: We're here to replace that. One other problem, just for -- of interesting note in the '75 Constitution says it shall be printed on parchment and sacredly preserved and all this, and nobody knows where it is.

And throughout the years of publication of the Constitution by Cherokee Nation to send out, it's wrong. Even the version that we got from public affairs to take to the newspaper office to print it, to send out for the publication for the Holiday was wrong.

So what we did was go through as close to what we could find to be the original document and revise what was on the Cherokee Nation's web page to make it as close to what we think was done in 1975. So it's entirely possible that we know for a fact there are different versions out there.

MR. HANNAH: This is our opportunity, ladies and gentlemen, to set it the way that we would propose it before our people. Mr. Keen, you are coming close to being able to state this.

And while you are doing so, I'll recognize the good lady from Arkansas.

MS. BIRMINGHAM: Mary Birmingham, Delegate.

MR. HANNAH: Yes, Mary.

MS. BIRMINGHAM: I would make a suggestion to this body that somewhere in this Constitution we place a new article that we appoint a lifetime archivist, so that we don't lose documents, that we will have some -- one place to put everything so that they can be preserved forever.

MR. HANNAH: Mary, thank you. You'll obviously have an opportunity a bit later on to be able to do that in order of our discussion.

MS. MEREDITH: Mr. Chairman.

MR. HANNAH: Ms. Meredith, you are recognized.

MS. MEREDITH: There is an agreement between the Cherokee National Historical Society and the Tribe that the Historical Society is the national archives. And Jack tells me that it is also a law of the Cherokee Nation that all archival material ought to be turned over to the Cherokee Nation Historical Society.

MR. HANNAH: Very well. Mr. Keen.

MR. KEEN, JR.: Sir, I think we have it.

MR. HANNAH: Very well. Then I would ask that you mount to the microphone, and we have the reading of the motion that is before us.

MR. KEEN, JR.: What you see at the top of the screen and you can see it up at the top left-hand corner, it says 'Constitution 2,' that is the motion that is on the floor. That's the language proposed by the Commission as amended by this body.

The language at the bottom is the original 1975 language,

so you can compare those two. You can read them. This will work on these short sections. When we get into the longer sections, we may have to just simply switch back and forth at the request of the delegates. But this is what we're attempting to do so we can get the language up and everybody can read it and understand what they're voting on.

MR. HANNAH: Read the amendment. Or motion on the floor.

MR. KEEN, JR.: Charlie, you raised the motion. Charlie, why don't you read it?

MR. GOURD: This is -- it includes, Mr. Hathaway's, we have the gratitude.

MR. HANNAH: Ms. Scott's amendment.

MR. GOURD: Yes. Mr. Chairman, I make a motion to approve the language in the Preamble:

"We, the people of the Cherokee Nation, in order to preserve our sovereignty, enrich our culture, achieve and maintain a desirable measure of prosperity, the blessings of freedom, acknowledging with humility and gratitude the goodness, aid and guidance of the Sovereign Ruler of the Universe in permitting us to do so, do ordain and establish this Constitution for the government of the Cherokee Nation."

MR. HANNAH: This motion is before us; there has been a second.

And all of those in favor will signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed will say "no."

THE DELEGATES: No.

MR. HANNAH: The Chair declares that the "ayes" have it; therefore, the motion has passed. Mr. Gourd.

This is the work of the people, folks.

MR. GOURD: Mr. Chair, I'm reminded of a classic line in a very classic movie, Smokey and the Bandit, "We've got a long way to go and a short time to get there."

MR. HANNAH: How appropriate that that would be entered into our historical record. If, in fact, if our descendants are to review this voluminous document, somehow finding that Smokey and the Bandit made its way into the Cherokee Constitution.

MR. GOURD: Couldn't resist that.

MR. HANNAH: Chair recognizes Dr. Gourd.

MR. GOURD: Mr. Chairman, I make a motion to approve language endorsed by the Constitution Convention Commission in reference to Article I of the 1975 Constitution. Our proposal would read as follows.

Article 1 would read -- "Federal Relationship," which replaces the word "Federal Regulations" and it reads as follows:

"The Cherokee Nation is an inseparable part of the federal Union. The Constitution of the United States is the Supreme law of the land; therefore, the Cherokee Nation shall never enact any law which is in conflict with the Constitution of the United

States. The term 'Nation' as used in this Constitution is the same as 'Tribe.'"

MR. HANNAH: There is a motion on the floor and a second. Debate is open.

MR. GOURD: Mr. Chair, I need to complete my explanation, very briefly.

MR. HANNAH: You are recognized, sir.

MR. GOURD: Yes, sir, thank you. First of all, if you'll note as we did in the Preamble, we have moved the section down under Article I. The words "federal regulation" has been changed to "relationship." And the primary reasoning for this is that in the U.S. Constitution, Article 1, Section 8, references Indian people, and, therefore, we have a lot of U.S. Supreme Court cases involving our federal government to government relationship. And although we are not a party to the U.S. Constitution, as Indian Nations, we are referenced therein. So that was the reasoning behind establishing the federal relationship.

And we also struck some language which placed us under federal statutory laws. So what we did was make it strictly in reference to our Constitution to the Constitution of the United States. Thank you.

MR. HANNAH: Thank you, Dr. Gourd. Ms. Masters, you are recognized.

MS. MASTERS: I'm speaking to amend this particular article.

MR. HANNAH: And your amendment is?

MS. MASTERS: That we change the words "in conflict with" to "inconsistent with." I don't believe that we always have to be in conflict. I just feel that's a negative word and if we just used "inconsistent with," I think that it would --

MR. HANNAH: Motion is on the floor to strike the phrase "in conflict" and insert "inconsistent with." Is there a second?

DELEGATES: Second.

MR. HANNAH: There is a second. Anyone rise in favor of this motion? Anyone rise in opposition to this motion?

MR. KEEN, JR.: Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: I would rise in opposition to the motion. The phrase "inconsistent with" is far too broad, in my opinion, and that it, in fact, could even bring about an argument that anything in our Constitution that is in any way different or at odds from the Federal Constitution, would be stricken down or had to be complied with.

So to me, that this language would be totally too far sweeping, that the term "in conflict" more closely denotes the spirit of what is intended in the article, and we simply do not need that broad of language in there.

MR. HANNAH: Do you rise in favor of the amendment? Do you rise in favor of the amendment?

MS. SILVERSMITH: Molly Silversmith. The word "conflict" does have a connotation to it, as you said, but it doesn't mean what -- I don't think it means that. I don't agree with "consistent"

MR. HANNAH: I beg your pardon? Your final remark?

MS. SILVERSMITH: I don't agree with the word to be replaced with "consistent."

MR. HANNAH: You rise in opposition. Very well, so noted. Mr. Mullon, you are recognized.

MR. MULLON: Delegate David Mullon. I would rise in opposition to the amendment. I agree with what Mr. Keen says. I would point out, though, that I think even his original language brings on the same troubles that this one brings on, only perhaps a little bit in a narrower context. But I rise in opposition of the motion and intend to rise in opposition to the main motion for the same reason.

MR. HANNAH: Thank you very much. Mr. Cornsilk, you are recognized.

MR. CORNSILK: I rise in opposition to the amendment. And my reasoning is, there is nowhere in federal law or judicial opinions or in Cherokee Nation law or the Constitution, are we a part of the federal union.

MR. HANNAH: Thank you very much for your comments. Mr. Keen, you are recognized.

MR. JOHN KEEN: I rise in opposition to the amendment. I believe that -- John Keen, delegate. I believe that the wording "inconsistent" would be too broad, but I'd even go further to say that this is an unnecessary reference reaffirming what is already there.

We are subject to federal law. And we are a domestic dependent Nation, with Georgia, I believe. We are a separate part of the federal union. We are simply restating facts and possibly placing more restrictions on ourselves than need be. So if we were to delete this, this whole wording here and not include it, that may solve our problem.

MR. HANNAH: Thank you, Mr. Keen. Does anyone rise in support of the amendment that is before us? Hearing none, then we'll move for the vote.

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

MR. HANNAH: Yes, sir.

MR. CORNSILK: Is Mr. Keen's statement in the form of a motion, to strike the article?

MR. HANNAH: I did not take it as a motion. Did you initiate a motion, Mr. Keen?

MR. JOHN KEEN: No.

MS. MASTERS: Mr. Chair, I'll withdraw it. We don't need to go through that.

MR. HANNAH: Thank you very much. The amendment

has been withdrawn. We return to Dr. Gourd's motion that is on the floor. Mr. Rutledge, you are recognized.

MR. RUTLEDGE: Mr. Chairman, Delegate Rutledge.

I move to amend the motion to strike Article I in its entirety. As previously said by Mr. Keen, that actually is already -- it already is very well in the federal Indian law. We don't need to include it in a part of our Constitution. This actually goes to say that we aren't sovereign, and we are further discussing that we would.

MR. HANNAH: Motion is on the floor to strike Article 1. Is there a second?

MR. CORNSILK: Second.

MR. HANNAH: There is a second. Debate is open.

Dr. Hook.

MR. HOOK: John Hook, delegate. I speak in support of the amendment. I think that we need to make a very clear statement of our sovereignty, and the fairest way to do that would be to delete the Article completely.

MR. HANNAH: Does anyone rise in opposition to the amendment before us? Anyone rise in opposition to the amendment before us? Mr. Keen.

MR. JOHN KEEN: John Keen, delegate. I have a point of clarification or point of information. I'm not sure what I'm supposed to call it. If this motion carries, I believe the motion on floor is to --

MR. HANNAH: Is to strike Article I. This article would be removed.

MR. JOHN KEEN: That would be -- that would not place us in a situation of using the original '75 constitutional language, would it? We have a motion to strike all reference? Do you understand my question, Mr. Chairman?

MR. HEMBREE: Point of information.

MR. HANNAH: Yes, sir.

MR. HEMBREE: Todd Hembree, delegate. As I understand it, the motion that is on the floor that we are to discuss is the revised suggestion of the Constitution Committee.

MR. HANNAH: That is our original motion, and we have an amendment to strike the Article.

MR. HEMBREE: Would we be actually --

MR. HANNAH: I'm glad to see that you're confused, sir, because if you think that I know what's going on here, I'm glad to see that we have other confusion here.

MR. RUTLEDGE: Point of information.

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

MR. RUTLEDGE: My motion was to amend Mr. Gourd's motion to strike the Article in its entirety. Otherwise to replace the language, strike it, obliterate it, everything.

MR. KEEN, JR.: Point of order, Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: The motion on the floor is to amend the original '75 language with this proposal. I think it's an

improper motion to move to strike this. If the motion fails, then you can raise an independent motion to strike the original Article I out of the Constitution.

MR. HANNAH: Chair takes that as a proper procedure. And so, therefore, the amendment to strike is --

MR. RUTLEDGE: I withdraw.

MR. HANNAH: -- withdrawn by Mr. Rutledge.

Thank you very much. And we have the motion on the floor by Dr. Gourd to accept the language that you see before us here. There is a second. And Mr. Mullon, you rise?

MR. MULLON: I rise in opposition to the amendment.

MR. HANNAH: All right, sir. And we will hear you.

MR. MULLON: David Mullon, delegate. I rise in opposition for the reason essentially that Mr. Keen raised earlier against the motion to amend. And that is the language that is in the Constitution version number two, that is Mr. Gourd's amendment, the -- suggestions that the United States Constitution and everything that's in it is, being more or less imported into our own Constitution.

It has that effect. So the Bill of Rights, all of the provisions of the National Constitution would be applicable to our own Constitution. And to me, if you are going to import into our Constitution the entire Constitution of the United States and all of its amendments, because that's what we're doing here, then in that case, I think that we are probably getting into something here that we really don't understand the implications of.

The other part that I find objectionable to Dr. Gourd's amendment, is the first sentence of his amendment and its saying. I find that the first sentence of his amendment and the original language in the Constitution as it exists right now is very troublesome.

I really do not know what it means to be an inseparable part of the federal union. I would agree that we are subject to federal law, and we are very much subject to the laws of the United States Congress. But does that make us an inseparable part of the federal union? I have difficulty with that term "inseparable" part. I don't know what part of the federal union are we?

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Yes, Mr. Chairman, Ralph Keen, Jr., delegate. I rise in support of the proposal, and I would just simply state that in essence, I do agree with most of the things that Mr. Mullon has just stated. But the rationale of the Commission was to not make sweeping changes unless we deem them absolutely necessary.

And one fear that we had with removing this Article altogether was what ramification it might have in Washington whenever we brought this document for approval by the President or his appointed designee. So I am in favor of the amendment as it

stands.

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

MR. SMITH: I stand in opposition to this amendment. One, is that it should not be a paramount consideration of what the bureaucrats in D.C.'s pleasure would be. Secondly, in 1898 the U.S. Supreme Court decided the case of Tolton versus Mayes, and in that case, the U.S. Supreme Court said the Cherokee Nation was not subject to the U.S. Constitution because we were a sovereign, years and years recognized in the international community before there was a United States.

Here we bind ours to a document that is not necessary. I would object to the amendment and then ask if that amendment's defeated, I would move to strike the Article I in its entirety.

MR. HANNAH: Thank you, Mr. Smith. Mr. Rutledge, you are recognized. Do you rise in opposition or support?

MR. RUTLEDGE: Opposition.

MR. HANNAH: Opposition.

MR. RUTLEDGE: Delegate Rutledge. I wanted to state that the effectiveness of this article is that it incorporates a lot of law that we normally are not subject to. The federal supreme court ruled that Indian Nations and Indian Tribes in general are not bound by generally applicable laws passed by Congress, but only by more specific laws that specifically address us. By including this language, we actually incorporate all of the law, we take on a lot of laws that normally wouldn't apply to us just because of that.

Second, in all the Indian Constitutions I've read, seen and dealt with, then I've never ever seen any article like this. I don't think it's going to be a problem in Washington because we're the only Nation that has ever had this sort of article in our Constitution.

MR. HANNAH: Thank you very much for your comments.

Mr. Keen, you are recognized, sir.

MR. RALPH, SR.: I'm Ralph Keen, Sr., delegate.

I'm rising in support of the amendment, and for a reason that has not been mentioned yet. I'd like to remind all of the delegates that what this document does is it directs the government of the Cherokee Nation in all of its activities. And what this amendment would do, what this article does, has done in the past, and should do in the future, if it's adopted, it will direct our Cherokee Nation government not to try to lead us away from the United States of America. Thank you.

MR. HANNAH: Any other delegates rise in support or opposition of the measure? Hearing none, then we will move for the amendment -- delegate from Muskogee, my friend, you are recognized.

MR. McDANIEL: I'm kind of slow sometimes, but I'm opposed to changing of the wording of this amendment because, like it or not, we're part of the United States. I'm a U.S.

citizen; these other people are U.S. citizens, and I don't see where it would help any at all to strike the language that is in there now. We're subject to a military address; we're part of the United States. And I would strongly oppose changing that wording up there.

MR. HANNAH: I thank you, sir. Very much. I will entertain Mr. Littlejohn.

MR. LITTLEJOHN: I rise in support of the Article I as revised. I'm not in favor of declaring war on the United States of America. I've raised my hand and swore to defend it for many, many years, and I'll still do it. And for us to sit here and act like that we can ignore the Constitution, we are subject to the Constitution of the United States. I want to be subject to it. I want to be protected by it. And I want us all to realize that the Constitution of the United States is what protects us all. I am in support of the suggested amendment.

MR. HANNAH: Thank you, delegate. Young lady, you are recognized.

MS. HAMMONS: Diane Hammons, delegate from Tahlequah. We cannot and we are not declaring war on the United States. We're not declaring that we won't follow the United States Constitution. Obviously, we are all bound to do that by being United States citizens, and we're all bound by that law.

What we should not do, in my opinion, is find ourselves as an Indian Nation to laws that don't necessarily apply to our Indian Nation. We cannot afford to give up any more of our sovereignty. And to say that we are going to accept all federal laws in total is, I think, giving up more of that sovereignty. So I stand in opposition to Article I.

MR. HANNAH: You are recognized, Ms. Plumb.

MS. CHAPMAN-PLUMB: Mr. Chairman, Susan Chapman-Plumb, delegate from Park Hill, Oklahoma. I don't believe that the language as stated in the revision says to me that we are binding ourselves to the federal law. I think that's what you've tried to differentiate.

We're stating that we are not going to enact any law that is in conflict with the Constitution of the United States, which, by the way, we have sworn to uphold as a part of oath as delegates here today. It doesn't say that we have a conflict -- that if we have a conflict with the law that we can't sue the pants off of them because we've done that. I just don't see a problem. I rise in support of the amendment.

MR. HANNAH: Thank you very much. Dr. Hook, you are recognized.

MR. HOOK: I rise in opposition to the amendment. We have a 500-year legacy of colonialism and part of the mechanism of control of the hegemony, which is has been imposed, is through language and documents such as this.

I believe that as a part of our continuing and evolving culture, the direction that we are going in trying to assume more sovereignty and express that sovereignty, that it's essential that

that be reflected in our documentation, and this is one of first examples that we are considering now, and I believe it's one of the most important examples. Opposition.

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

MR. JOHN KEEN: John Keen, delegate. I'd just like to restate my position in opposition, it's already stated in federal law, as I understand it, which may not be a very good --

MR. HANNAH: Mr. Keen, I'm going to ask you to keep your remarks brief. You've been to the podium before, and if there are other delegates that wish to rise in this manner, I would have them do so.

MR. JOHN KEEN: Yes, sir, the statements made by some of the other delegates about being U.S. citizens. I just want to simply restate the fact that we all are United States citizens, citizens of a state and citizens of the Cherokee Nation. We're not trying to enact any laws. We couldn't do that. We're bound by federal law.

My position is, we may simply be reaffirming their control over us and possibly, in name only or in just by writing this, be submitting ourselves to more of congress disciplinary authority over us.

MR. HANNAH: Thank you, Mr. Keen. Any other delegates rise to the occasion? Mr. Hathaway.

MR. HATHAWAY: I'll refer to Dr. Gourd.

MR. HANNAH: Dr. Gourd.

MR. GOURD: I would like to just make one brief comment. I commend every delegate here for raising every one of these issues. We spent five or six hours one day, and this was the essential points that are being brought out are the things that we threw in the air, cussed, discussed, and rambled, and took a five-minute break, and came back. And when we met those points in time, we said, language as it is, minor amendments, take it to the delegates. So this is exactly discussion we've gone through.

MR. HANNAH: The only difference is we're not taking a five-minute break. Mr. Hathaway.

MR. HATHAWAY: Mr. Chairman, some tribes recognize dual citizenship. I wonder if what we are really agreeing on here is that while we are a citizenship in the United States, which wasn't our choice initially, but was given to us, belatedly, we still respect that.

But here we are saying what our obligations are as Cherokees, and so if there was some way to say that we reaffirm our sovereign and mutually beneficial relationship with the United States of America, without saying how we are subject to supreme court decisions or not, leaving it to be something that is decided in the future, maintaining our sovereign and independent citizenships in our own Nation, without questioning or challenging in the document something that many of us also feel very strongly about, and have relatives that have given their lives to protect and defend.

But I think if we said something in this provision that recognized our sovereignty and our mutually beneficial relationship with the United States, which may be more of a hope than a reality at some times, that that would satisfy our need without stating what our relationship is with the Constitution as it may or may not have been interpreted, as opposed to what it actually says in its text. That gets us into something where we may, as the other delegate stated, we will be litigating long after all of us are dead and buried.

MR. HANNAH: Mr. Hathaway, do you have a motion before the floor or simply a point of debate?

MR. HATHAWAY: I would be prepared. I'm just trying to move us to the next point, and I sense that there is an agreement that we want here not to question our own sovereignty, nor to insult the honor of our ancestors who are also citizens of United States, but we don't want to buy lock, stock and barrel every court decision or federal legislation that somebody comes down. And if we said, instead of what is here, and this is -- I'm not wedded to it, but if we just said, The Cherokee Nation --

MR. HANNAH: Motion for amendment.

MR. HATHAWAY: Make a motion for amendment. The Cherokee Nation reaffirms its sovereign and mutually beneficial relationship with the United States of America, that we might accomplish the desires that both sides of this debate are stating without restating an obligation to be subject to the Constitution of the U.S. as it may be interpreted in a way in which we disagree.

MR. JOHN KEEN: Second the motion.

MR. HANNAH: Mr. Hathaway, I'm going to ask -- please stay at the microphone. I'm going to ask that you've made a motion to amend, and I want to make sure that we have the clarifying language. There is a second.

MR. RUTLEDGE: Point of information.

MR. HATHAWAY: I would actually offer, if I could, if I could offer this as a friendly amendment to the motion to delete.

MR. HANNAH: Mr. Gourd.

MR. GOURD: Yes, sir. I would accept that as an amendment.

MR. HANNAH: Let's make sure what that is. That's my role here is to make sure what that is.

Mr. Rutledge, I apologize, sir. You're recognized.

MR. RUTLEDGE: Was the word "sovereign" or "sovereignty"?

MR. HATHAWAY: "Sovereign."

MR. RUTLEDGE: Would the kind delegate accept a friendly amendment to amend it to "sovereignty"?

MR. HATHAWAY: I would if Mr. Gourd would accept the friendly amendment.

MR. HANNAH: If we can get five more people over here to get in this friendly amendment. Mr. Gourd.

MR. GOURD: While we're being friendly, let's do it.

MR. HATHAWAY: Then I would offer this with the revision with Delegate Rutledge to say, "reaffirms its sovereignty," as an amendment in substitution to proposal that Dr. Gourd presented from the Commission.

MR. HANNAH: Mr. Keen, clarification.

MR. KEEN, JR.: We would need to know what language needs to be stricken and replaced.

MR. HATHAWAY: Mr. Chairman, if we would strike everything as you have it here and the substitute would be, "the Cherokee Nation reaffirms its sovereignty and mutually beneficial relationship with the United States of America." Delete the rest.

MR. HANNAH: Mr. Gourd, do you accept the friendly amendment as proposed by Mr. Hathaway?

MR. GOURD: Yes.

MR. KEEN, JR.: Remainder of the language.

MR. HATHAWAY: Well, we just need to keep the term "Nation," I refer to Dr. Gourd on that.

MR. GOURD: We've had extensive discussion on that.

MR. HATHAWAY: I believe that's an appropriate thing to refer, to retain the last sentence, so I would strike the rest of the substance and leave the last sentence. I know there are other legal reasons for that.

MR. HANNAH: Mr. Gourd, do you accept the friendly amendment as presented by Delegate Hathaway?

MR. GOURD: Yes, sir, Mr. Chairman.

MR. HANNAH: We have a motion on the floor, and that motion is that the provision for Article I, Federal Relationship.

"The Cherokee Nation reaffirms its sovereignty and mutual beneficial relationship with the United States of America. The term 'Nation' as used in the Constitution is the same as 'Tribe.'" There is a second on the floor. Mr. Rutledge.

MR. RUTLEDGE: Point of information. I'm just wondering if there is something I'm not aware of. Who in authority establishes the nation of tribal Indian law (inaudible) and federal Indian law. Are there other people I'm not aware of?

MR. HANNAH: Mr. Gourd, would you speak to that issue?

MR. GOURD: Mr. Keen brought this up in conversation, and there seems to be some conflicting interpretation, so I'll defer the response on that.

MR. KEEN, JR.: Mr. Gourd, I did not hear the question. I'm sorry.

MR. GOURD: Why we have the term "Nation" as used in this Constitution is the same as "Tribe." We discussed that, and it was your recommendation that that sentence be retained.

MR. KEEN, JR.: That's based on the body of

Indian law out there, which predominantly labels Indian sovereign entities as "Tribes," and that's all. That's the only rationale for that retention. It's just for clarification. We have a professor here that can speak to this much better than I could, but all of the case law in many of the federal statutes and, in fact, our United States Constitution refer to sovereign Native American bodies as Tribes.

MR. HANNAH: Mr. Rutledge.

MR. RUTLEDGE: I would make a motion to further amend the motion to strike the sentence the termination as used in this Constitution as the same as the "Tribe."

MR. HANNAH: Motion is on the floor to strike the phrase "The termination as used in this Constitution is the same as 'Tribe.'" Is there a second?

MR. SMITH: Second.

MR. HANNAH: There is a second. Debate is open.

MR. RUTLEDGE: Mr. Chairman.

MR. HANNAH: Mr. Rutledge.

MR. RUTLEDGE: Mr. Rutledge. I would like to strike that because it already is in the existence in federal Indian laws, so it's superfluous for us to include it here. It really is useless to include it.

In fact, there is a difference between a "Nation" and "Tribe" in federal Indian law to some degree, although they recognize that there are differences, they treat everyone as the same. A Nation generally is someone who actually has a formal government. We've had a formal government since 1827. I think it's better to say that we're a Nation rather than to say we're just a Tribe that formerly didn't have a form of government.

MR. SMITH: Mr. Chairman.

MR. HANNAH: Mr. Smith is recognized.

MR. SMITH: In our history there is a huge difference between "Nation" and "Tribe." The Cherokee Nation was an Indian Republic. After the American Civil War, we had five ethnic groups who were citizens of the Tribe. Freedman; adopted whites; Cherokees by blood; Shawnees by blood; and Delawares by blood. And so a Tribe is an anthropological concept; a Nation is a legal political concept. So there's not a synonymous provision there, unless we bind ourselves to it, and it's needless.

MR. McDANIEL: Mr. Chairman.

MR. HANNAH: Kind delegate from Muskogee is recognized.

MR. McDANIEL: I assume we're working on this Article I, Federal Relationship; is that right?

MR. HANNAH: Yes, sir, we are. You have my permission at any time to bring us back to where we need to be.

MR. McDANIEL: You're going kind of fast for an old guy like me. But I want to know the purpose of deleting the words -- Cherokee Nation is an inseparable part of the federal union. What is the purpose of deleting those words?

MR. HANNAH: And we have addressed that in earlier debate. Forgive me for recognizing another speaker, but that --

MR. McDANIEL: I just missed out on it.

MR. HANNAH: That's quite all right. I think the debate -- and I would not attempt to recap the amount of debate that we have regarding that particular issue. But we are, in fact, before us with the amendment that Dr. Gourd has before us, and at this -- or the motion Dr. Gourd has before us. We have an amendment to strike the final phrase, which is, "The termination used in this Constitution is the same as 'Tribe.'"

Mr. Keen, you are recognized.

MR. JOHN KEEN: John Keen, delegate.

MR. HANNAH: Do you rise in opposition or support of the amendment?

MR. JOHN KEEN: Call for previous question.

MR. RUTLEDGE: Point of information.

MR. HANNAH: Point of information.

MR. RUTLEDGE: I meant to offer this as a friendly amendment, and I simply forgot to introduce the term friendly. (Inaudible) But I set it up for the question.

MR. HANNAH: Well, and I guess if you were offering this as a friendly amendment, we would have needed to have sought the permission of Dr. Gourd who has this motion before us. Dr. Gourd.

MR. GOURD: I would accept that as a friendly amendment, sir.

MR. HANNAH: In that case, then we are back to, at this point --

MR. CORNSILK: Point of information.

MR. HANNAH: Yes, sir.

MR. CORNSILK: If it's possible at this late moment to get Mr. Smith or some other learned attorney to explain to us in really short words how the Cherokee Nation today is the historic successor to the Tribe described in the original treaties of the Cherokee Nation, Treaty of Hopewell, as the Cherokee Nation of Indians, the Cherokee Tribe of Indians.

I see where we're going, but I want to make sure that we're not shedding some right or privilege that was granted by a previous treaty.

MR. HANNAH: We must be careful here.

MR. JOHN KEEN: Point of personal privilege.

MR. HANNAH: Yes, sir.

MR. JOHN KEEN: I've called for previous question.

MR. HANNAH: Let me clarify which question you were calling for. You were calling for the previous question of Dr. Gourd, correct? His motion.

MR. JOHN KEEN: Yes. I moved for the previous question, and if that fails, we'll open debate again, but I called

for a vote.

MR. HANNAH: There is a vote for calling the question before us at this time.

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

THE DELEGATES: Aye.

MR. HANNAH: Those opposed say "no."

THE DELEGATES: No.

MR. HOOK: Can you clarify what we are voting on?

MR. HANNAH: What we are clarifying on is to call the question, which is, in fact, Dr. Gourd's motion before us.

We were stopping debate by this vote. Correct? We are stopping debate by this vote. That is all we are doing is stopping debate.

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

THE DELEGATES: Aye.

DELEGATE: Are we voting on what's up there?

MR. HANNAH: We are not voting on what's up there. We are voting to stop debate on this issue.

All those opposed say "no."

DELEGATE: No.

MR. HANNAH: The "ayes" have it. Debate has been closed, and we are back to the motion that is before us at this time, which is Dr. Gourd's motion of, "The Cherokee Nation affirms its sovereignty and mutual beneficial relationship with the United States of America deleting the term by friendly amendment. The term 'Nation' as used in this Constitution is the same as 'Tribe'; is that correct, Dr. Gourd?

MR. GOURD: Yes, sir.

MR. HANNAH: And there is a second before us, so, therefore, all those in favor of the motion before us -- Tina, you are recognized.

MS. JORDAN: Delegate Jordan. Point of information. If Mr. Gourd's article fails, we keep the one that we already have?

MR. HANNAH: Yes, ma'am. And that was a significant point. Thank you for raising that for us.

MR. JOHN KEEN: Point of information.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: If it fails, we'll be able to make a motion to strike the '75 Article I, correct?

MR. HANNAH: We will be at the pleasure of the delegates. And we'll have no more debate on this issue, but we will move for the vote.

All of those in favor of the motion made by Mr. Keen, which is, once again, as you see on the screen:

"The Cherokee Nation affirms its sovereignty and mutual beneficial relationship with the United States government."

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 Chair is uncertain.

Therefore, those in favor, please raise your hands, and Secretary and the Vice-Chairman will count. Ladies and gentlemen, we are taking a vote for the approval of the motion that is on the floor, please raise your hand high and leave it there.

Bill John, is yours up or down, or is that just a cup of coffee? Please lower your hands for a moment. We're going to come up with a consistent way of voting.

At this point, those in favor are going to raise your hands, and we're going to do a count-off vote, and we will start at this portion of the room over here, and this means that as you raise -- with everyone's hand raised, and then we are going to have a voice vote that will say, one, two, three, four, five, right on across the room until we have a final count.

You suggest that we do it by rows. In that case then, I am going to take to the floor to administer this piece. Those in favor of the proposition that is before us at this time, everyone raise your hand that is in favor of such, starting with this row of delegates. We'll begin with the number one, and we'll count off; therefore, the Secretary will take the record of voting.

THE DELEGATES: One.

Two.

Three.

Four.

Four, oh, sorry.

MR. CORNSILK: Delegate Hembree calls for a roll call vote.

MR. HANNAH: Due to the fact that we are unable to count, we will move for a roll call vote. Mr. Secretary.

MR. UNDERWOOD: Adair.

MS. ADAIR: No.

MR. UNDERWOOD: Alberty.

MR. ALBERTY: Yes.

MR. UNDERWOOD: Bill Baker.

MR. BILL BAKER: No.

MR. UNDERWOOD: Donn Baker.

MR. DONN BAKER: No.

MR. UNDERWOOD: Jack Baker.

MR. JACK BAKER: Yes.

MR. UNDERWOOD: Ms. Berry.

MS. BERRY: Yes.

MR. UNDERWOOD: Birmingham.

MS. BIRMINGHAM: Yes.

MR. UNDERWOOD: Burnett.

MS. BURNETT: Yes.

MR. UNDERWOOD: Center.

MR. CENTER: No.

MR. UNDERWOOD: Chilson.

MS. CHILSON: Yes.

MR. UNDERWOOD: Clarke.  
MR. CLARKE: Yes.  
MR. UNDERWOOD: Colson.  
MS. COLSON: Yes.  
MR. UNDERWOOD: Coon.  
MS. COON: Yes.  
MR. UNDERWOOD: Cornsilk.  
MR. CORNSILK: Yes.  
MR. UNDERWOOD: Crawford.  
MS. CRAWFORD: Yes.  
MR. UNDERWOOD: Crittenden, Don.  
MR. DON CRITTENDEN: Yes.  
MR. UNDERWOOD: Crittenden, H.  
MR. H. CRITTENDEN: Yes.  
MR. UNDERWOOD: Crouch.  
MR. CROUCH: No.  
MR. UNDERWOOD: Davis, Bill.  
MR. BILL DAVIS: No.  
MR. UNDERWOOD: Davis, Earl. Earl Davis.

Downing.

MR. DOWNING: Yes.  
MR. UNDERWOOD: I'm sorry, was this Bryce

Downing or Carl?

MR. DOWNING: Carl.  
MR. UNDERWOOD: Carl Downing.  
MR. DOWNING: Yes.  
MR. UNDERWOOD: Dowty.  
MR. DOWTY: Yes.  
MR. UNDERWOOD: Foster.  
MS. FOSTER: Yes.  
MR. UNDERWOOD: Gourd. Gunter.  
MR. GUNTER: Yes.  
MR. UNDERWOOD: Hagerstrand.  
MS. HAGERSTRAND: Yes.  
MR. UNDERWOOD: Hammons.  
MS. HAMMONS: Yes.  
MR. UNDERWOOD: Hannah. Herod.  
MR. HEROD: Yes.  
MR. UNDERWOOD: Hathaway.  
MR. HATHAWAY: Yes.  
MR. UNDERWOOD: Havens.  
MS. HAVENS: Yes.  
MR. UNDERWOOD: Hembree.  
MR. HEMBREE: No.  
MR. UNDERWOOD: Hook.  
MR. HOOK: Yes.  
MR. UNDERWOOD: Hoskin, C.  
MR. HOSKIN, SR.: Senior?  
MR. UNDERWOOD: Senior.  
MR. HOSKIN, SR.: No.

MR. UNDERWOOD: Johnson.  
MR. JOHNSON: No.  
MR. UNDERWOOD: Jordan.  
MR. HOSKIN, JR.: Point of order. You skipped  
Hoskin, Jr. I vote "no."  
MR. UNDERWOOD: Hoskin, Jr.  
MR. HOSKIN, JR.: No.  
MR. UNDERWOOD: Jordan.  
MS. JORDAN: No.  
MR. UNDERWOOD: J. Keen.  
MR. JOHN KEEN: Yes.  
MR. UNDERWOOD: Ralph, Jr.  
MR. KEEN, JR.: Yes.  
MR. UNDERWOOD: Ralph Keen, Sr.  
MR. KEEN, SR.: Yes.  
MR. UNDERWOOD: Lay.  
MR. LAY: Yes.  
MR. UNDERWOOD: Littlejohn.  
MR. LITTLEJOHN: No.  
MR. UNDERWOOD: Linnenkohl.  
MS. LINNENKOHL: Yes.  
MR. UNDERWOOD: Masters.  
MS. MASTERS: Yes.  
MR. UNDERWOOD: McDaniel.  
MR. McDANIEL: No.  
MR. UNDERWOOD: McIntosh.  
MS. McINTOSH: No.  
MR. UNDERWOOD: McCreary.  
MR. McCREARY: Yes.  
MR. UNDERWOOD: MacLemore.  
MR. MacLEMORE: Yes.  
MR. UNDERWOOD: Melton.  
MR. MELTON: Yes.  
MR. UNDERWOOD: Meredith.  
MS. MEREDITH: No.  
MR. UNDERWOOD: Miller.  
MS. MILLER: No.  
MR. UNDERWOOD: Moore.  
MR. MOORE: Yes.  
MR. UNDERWOOD: Mullon.  
MR. MULLON: No.  
MR. UNDERWOOD: Phillips.  
MR. PHILLIPS: Yes.  
MR. UNDERWOOD: Pitts.  
MS. PITTS: Yes.  
MR. UNDERWOOD: Plumb.  
MS. CHAPMAN-PLUMB: Yes.  
MR. UNDERWOOD: Poteete.  
MR. POTEETE: Yes.  
MR. UNDERWOOD: Raper.

MR. RAPER: Yes.  
MR. UNDERWOOD: Rider.  
MR. RIDER: Yes.  
MR. UNDERWOOD: Robinson.  
MR. ROBINSON: No.  
MR. UNDERWOOD: Rutledge.  
MR. RUTLEDGE: Yes.  
MR. UNDERWOOD: Sanders.  
MR. SANDERS: Yes.  
MR. UNDERWOOD: Barbara Scott.  
MS. STARR-SCOTT: Yes.  
MR. UNDERWOOD: D. Scott.  
MS. D. SCOTT: Yes.  
MR. UNDERWOOD: Owen Scott.  
MR. SCOTT: Yes.  
MR. UNDERWOOD: M. Silversmith.  
MS. SILVERSMITH: No.  
MR. UNDERWOOD: R. Silversmith.  
MR. SILVERSMITH: Heck, no.  
MR. UNDERWOOD: Smith.  
MR. SMITH: Yes.  
MR. UNDERWOOD: Spencer.  
MR. SPENCER: Yes.  
MR. UNDERWOOD: Starr.  
MR. STARR: Yes.  
MR. UNDERWOOD: Stopp. Stopp. Stroud.  
MS. STROUD: No.  
MR. UNDERWOOD: Twining.  
MS. TWINING: No.  
MR. UNDERWOOD: Viles.  
MR. VILES, JR.: No.  
MR. UNDERWOOD: Wheeler.  
MR. WHEELER: Yes.  
MR. UNDERWOOD: Whitfield.  
MR. WHITFIELD: No.  
MR. UNDERWOOD: Wilson.  
MR. WILSON: Yes.  
MR. GOURD: I vote "yes."  
MR. HOOK: What does it take for this to pass?  
MR. HANNAH: Majority, fifty-two. No, majority

is thirty-nine.

MR. PEACOCK: Point of information. My name was not called.

MR. HANNAH: Your name was not called?

MR. UNDERWOOD: Correct.

MR. HANNAH: Mr. Peacock, correct?

MR. PEACOCK: Roger Peacock, yes.

MR. HANNAH: Is there any other delegates, aside from Delegate Peacock, that did not have their name called during the vote? Very well. Mr. Peacock needs to be added to the roster

and be allowed to cast his vote.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: One moment. Mr. Peacock, what is your vote?

MR. PEACOCK: "Yes."

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

MR. CORNSILK: On the list that I have, I have an Underwood and that name was not called.

MR. HANNAH: Mr. Underwood is the Secretary.

MR. UNDERWOOD: I vote "yes."

MR. HANNAH: And he votes "yes." We didn't want to get him confused in the count.

MR. SMITH: Point of order.

MR. HANNAH: Mr. Smith is recognized. Point of order.

MR. SMITH: The style Article I has been changed also with the substantive language because previously it was "regulation" and now it's "relationship"; is that correct?

MR. HANNAH: Yes. Thank you for that clarification. Has the Secretary completed the tallying of the vote?

MR. UNDERWOOD: Yes.

MR. HANNAH: And the results are?

MR. UNDERWOOD: Yes votes, fifty-two; no votes twenty-one.

MR. HANNAH: Chair declares that the motion carries. Therefore, it has been approved that Article I, Federal Relationship, shall read:

"Cherokee Nation affirms its sovereignty and mutual beneficial relationship with the United States of America."

Dr. Gourd, you are recognized.

MR. GOURD: Thank you, Mr. Chairman. I make a motion to approve Article II, Bill of Rights. Language would read:

"Section 1. The judicial process of the Cherokee Nation shall be open to every citizen of the Cherokee Nation. Speedy and certain remedy shall be afforded under the terms of this Constitution for every wrong and injury to person, property or reputation wherein said remedy does not conflict with the laws of the United States. The Council shall prescribe the procedures pertinent thereto as provided in Article VII. The appropriate protections guaranteed by the Indian Civil Rights Act of 1968 shall apply to all citizens of the Cherokee Nation."

As a point, again, of clarification for the delegates, this was also extensively discussed at the Commission. We had all sorts of alternative language to submit, and as with other language, we're bringing this to the delegates to clarify. Thank you.

MR. HANNAH: There's a motion on the floor, and is there a second? Do I hear a second? DELEGATE: Second.

MR. HANNAH: There is a second. Debate is open.  
Mr. Smith, you are recognized.

MR. SMITH: I'd move to amend the proposal, and I'd ask Mr. Gourd to consider this a friendly amendment.

MR. HANNAH: Thank you, Mr. Smith, for this approach.

MR. SMITH: The language in the very last line says, "apply to all citizens of the Cherokee Nation." The Indian Civil Rights Act also applies to non-Indians who are under the jurisdiction of the Cherokee Nation; therefore, we have limited the remedies in our court to Tribal members only.

I move to amend the last language to provide provisions that it would apply to all persons who have brought themselves within the jurisdiction of the Cherokee Nation.

And do you have language? Do you have that language?

MR. GOURD: Would that be "within the jurisdiction" or "those who submit themselves to"?

MR. SMITH: I apologize, we submitted to the Commission some language earlier, and it sort of snuck up on us. I would ask to add this language. Show the very last sentence after, "The Indian Civil Rights Act of 1968 shall apply to all individuals in entity subject to the jurisdiction of the Cherokee Nation."

The language would be, "shall apply to all individuals and entities subject to the jurisdiction of the Cherokee Nation." That would expand it to not only non-Indian individuals, but corporations. For example, we could expand those remedies to corporations that deal with the Cherokee Nation and to individuals.

MR. HANNAH: You submit that as a friendly amendment to Mr. Gourd's motion?

MR. SMITH: Yes, sir.

MR. HANNAH: And, Mr. Gourd, in light of the fact that you are standing at the podium to present the recommendations of the Commission, I don't want to place you in the unenviable position of accepting friendly amendments on behalf of the Commission; therefore, I ask for a straw vote of the Commission with regard to accepting this as a friendly amendment. So we have a friendly amendment that's before us, and we'll conduct a straw vote of the Commission.

MR. HATHAWAY: Mr. Chairman.

MR. HANNAH: Sir.

MR. HATHAWAY: May I offer a friendly amendment to the amendment, which I support?

MR. HANNAH: I think that is -- very well. Step forward. Mr. Hathaway, you are recognized.

MR. HATHAWAY: It would be acceptable to add after, "speedy and certain remedy," to insert the phrase "affording due process." So that we, as I understand, we do it for due process, but without a reference to constitutional rights. I think this may be the appropriate place to state it.

And I might say this, I think it is essential that the

amendment that is offered be adopted for reasons of just doing business and having economic development under the Tribe. I think it's a very good amendment, and I offer the addition of 'due process' after consultation with kind of --

MR. SMITH: Mr. Chairman, is it possible to have a brief caucus with Mr. Gourd and Mr. Hathaway and propose -- reconcile some minor language?

MS. JORDAN: Point of privilege, can I call for a five-minute recess. Somebody thought that was funny. Delegate Jordan. I keep looking and --

MR. HANNAH: You're recognized.

MS. JORDAN: Request a five-minute recess.

MR. HANNAH: And the Chair will yield to that request, and I would suggest, Mr. Smith, that during that five-minute recess, where we're coming back, that you would caucus with those individuals that you raised earlier. Thank you.

(recess taken)

MR. HANNAH: Let's take our seats. Mr. Rutledge, I hope this is a point of personal privilege or point of information.

MR. RUTLEDGE: I was going to make a motion to table Article II so that we could confer on the language, or come back and supplement later rather than --

MR. HANNAH: There's a motion to table Article II for conference. Is there a second?

DELEGATE: Second.

MR. HANNAH: There's a second. Those in favor please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed say "no."

THE DELEGATES: No.

MR. HANNAH: Therefore, it is passed, and this amendment is on the table. We'll entertain Dr. Gourd, whatever action is taken by those that were caucusing informally, I will add, during our meeting. We will resurrect following our luncheon schedule.

Referring to the approved agenda that this body has before it, we are to recess at eleven-thirty for lunch. Dr. Gourd, I assume that we mount to the second floor of the Student Union in Ballroom A and B for lunch.

MR. GOURD: You are correct, Mr. Chairman.

MR. HANNAH: And with that, the agenda will have us returning to reconvene at one p.m. in this room. So let's make our way over for lunch and return here at one. We are at recess.

(recess taken)

MR. HANNAH: I see we have a number of individuals that are serving here today to assist us. We have young people that are serving as pages for the convention, and they're doing an admirable job. And we're going to be expecting more out of them as we move along.

I would like for each one to come to the microphone. Mr. Smith, if you would yield that microphone to our pages. Give us your name and the home community of which you're from.

GINA: My name is Gina, I'm from Jay.

MR. HANNAH: Jay, Oklahoma.

KIM GEORGE: My name is Kim George and I'm from Roland.

MACKIE MOORE: I'm Mackie Moore, and I'm from Sallisaw, Oklahoma.

GIL BEAVER: Gil Beaver from Tulsa, Oklahoma.

TAMARA DAVIS: Tamara Davis, Tahlequah.

TERIA SIXKILLER: My name is Teria Sixkiller. I'm from Tahlequah.

MR. HANNAH: Thank you all for volunteering. Please take close notes. In twenty years, we'll expect for you to be here. And you may be about the business a bit more expeditiously than we are here today.

We are called back from our recess and we are in session. Chair recognizes --

MR. SMITH: Chad Smith.

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

MR. SMITH: Thank you very much. I would like to report to the Commission that during the lunch we did caucus, we have language that's roughed out that we would propose for Article II, Bill of Rights. It still needs a little bit of time. I would ask the Commission to continue tabling that for maybe, Charlie, say, a half hour?

MR. GOURD: We could have that.

MR. HEMBREE: On order.

MR. HANNAH: On order, sir.

MR. HEMBREE: A motion to table would table it until there was a majority vote to bring it off the table. So you really can't put a time limit on it.

MR. HANNAH: Very true. By our previous vote, this motion is on the table. So we would need to bring it back by vote at a later time.

Mr. Mullan, you are recognized, sir.

MR. MULLON: Thank you, Mr. Chairman. It's going to take about an hour or two -- it will take about an hour or two to work the whole thing out at this point. We're almost there, but it will take a little bit more time.

MR. HANNAH: It shall not be brought off the table until somebody moves that it be brought back before the delegates. Thank you for that report.

MR. SMITH: Mr. Chairman, I have another motion, please.

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

MR. SMITH: I have a motion to amend the agenda, and underlying that motion to amend the agenda was a motion that was referred to as recess until the Cherokee National Holiday. That

second motion was laid out this morning, and all the delegates should have a copy.

Let me read the underlying motion and then I'll read the motion to amend the agenda to address the underlying motion. The underlying motion is that:

"Upon completion of business of this convention, that the convention recess until the Cherokee National Holiday 1999. During the recess the Commission publish in the Cherokee Advocate and other media the proposed amendments to the Constitution, provide for public debate and discussion of the amendments. Upon reconvening during the Cherokee National Holiday, the convention review public comment and finalize all amendments and then call for a special election for adoption of proposed amendments."

To get to that, I would move to amend the agenda to consider this motion.

MR. HANNAH: In other words, we need to agree as a body to amend the agenda, and, if so, then this, I assume, would be placed as -- you would then make a motion, which you just did, to place this on the agenda.

MR. SMITH: Yes, and that would hear instantaneously.

MR. HANNAH: Okay. We have a motion on the floor to amend the agenda and supplant it with the agenda item that:

"Upon completion of the business of the convention, recess until the Cherokee National Holiday 1999. During the recess the Commission publish in the Cherokee Advocate and other media the proposed amendments to the Constitution and provide for public debate and discussion of the amendments. Upon reconvening during the Cherokee National Holiday, review public comment and finalize all amendments and call for a special election for adoption of the proposed amendments."

Do I hear a second?

MR. VILES, JR.: Second.

MR. HANNAH: There is a second. Debate is open at this time. Does anyone speak?

DELEGATE: Point of information.

MR. HANNAH: Yes, sir.

DELEGATE: Would this then require a two-thirds vote amending the agenda?

MR. HANNAH: Yes, it will. Yes, ma'am, you are recognized.

MS. CHILSON: Point of information. May I ask Mr. Smith the rationale behind this amendment?

MR. HANNAH: Mr. Smith, rationale behind the amendment that you put forth, please.

MR. SMITH: Yes. Whatever product we come to is consensus from this body. The Cherokee population desperately needs to have a comfort level of having read this and being debated in the forums and the Internet, the newspapers, and the communities.

This is a very serious document, a very serious time.

It's going to be with us for twenty, fifty, a hundred years from now. So it's not the time to rush into it. Therefore, whatever product we have, we lay it out in front of the public. We lay it out to be open for debate and discussion.

We come back at the Cherokee National Holiday, having heard the public's discourse. We convene again then and put the final touches on our document and then set it for a special ballot election after the Cherokee Holiday.

MR. HANNAH: Thank you, Mr. Smith. Anyone rise in support or opposition of the motion that is before us at this time, to amend the agenda?

Mr. Keen, you are recognized.

MR. JOHN KEEN: I rise in opposition to the amendment to the agenda. I feel that if we were to effectually table the finalization of this, too many ifs, ands or buts, too many things that could happen in the meantime.

You know, as we're organized here, this, by definition, I believe, is a political process. But if we were to allow it, I've heard some discussion on this to the effect that they would come and basically campaign for the Constitution. I don't believe that's part of the process that we're involved in here.

I think that we are vested with the voice of the Cherokee people here and we need to discharge those duties that we're vested with. Two months, whatever the time frame may be, three months prior to election is plenty of time to get it on the Internet, distribute it amongst the communities, amongst the Cherokee people.

I had less time than that to get ready for it. I took it serious and I familiarized myself with it. I think that we can get it done. I don't believe -- I think that too many things can happen. We can effectively kill the process if we leave it out there for too long. I'm staunchly against this.

MR. HANNAH: Thank you, Mr. Keen. Mr. Poteete, you are recognized. Do you rise in favor or do you rise against?

MR. POTEETE: I rise in favor. I'd like to say to you, carefully consider whether the Cherokee Nation, the leading tribe in the country, the most recognized for years, looked to for leadership by other Indian tribes, decide -- that do we want to go forward in having said that we framed a Constitution over the weekend? Doesn't a Constitution require careful reflection and extensive debate?

We had very low turn-out at the meetings that the Commission held. I submit to you that if this convention works through, comes up with tentative proposals and puts those out, that you will hear extensive discourse then from the Cherokee people and that we need not get in a big hurry about this.

We need to carefully deliberate what we're doing. And as you can see, we've made our progress through, what, one section of how many, in two days now.

I don't think -- I don't agree with Mr. Keen that we will destroy the process; I think rather that we will strengthen it. We

have constituted a Commission; and if it is a worry that the Commission itself -- and the convention has been established -- if we're concerned about the Commission, I think that if it is the will of this body that we recess to come together at a later time, that the Tribal Council, I think, will accommodate an extension of the mandate, if that's in issue here, if what we decide to do is to recess, that we can keep the Commission intact.

I think that, in having said that, I just ask you, carefully weigh what it's going to look like in the international community if it's said that we framed our Constitution over the weekend.

MR. HANNAH: Thank you, Mr. Poteete. Mr. Mullon, you are recognized, sir. Do you rise in opposition or in favor of the motion?

MR. MULLON: I rise in favor of the motion. I agree with Mr. Poteete that we are now undertaking one of the most momentous tasks that you could ever put on a body of this kind. And that is to create a document that is supposed to last for years.

There is no reason that we should feel that we have to finish this Constitution in a weekend. There is no reason for it. There are certain constraints, there are pressures.

I realize that in order to -- if we end up having to recess and we don't have a final product and we have to reconvene, that that will cost some money and it will take longer to do. But nevertheless, I think -- I feel like we are better serving our people if we go about this very slowly and very carefully, each section debated very fully and thoroughly and changed to the extent fully debated.

There is no reason, again, that we need to create a Constitution over a Saturday and a Sunday.

MR. HANNAH: Thank you very much, sir. Frank, you are recognized.

MR. MacLEMORE: Thank you, Mr. Chairman. I rise in favor of this. Yesterday we were charged with the responsibility of being ambassadors for the work we're doing here.

Also, we heard yesterday a word called "participation." And I think by extending, as Mr. Smith has suggested, the time frame for this, it would give us an opportunity to invite people to participate along with us in approving this Constitution.

I think this would address also the issue of voter apathy. Last night I looked at the report that Mrs. Riney had given me, dating all the way back to 1972. I looked at the number of ballots that were sent out, the number of ballots that were returned, and there's a large deficit of -- between the number of ballots that were sent out and the ballots that were returned.

So I think by extending this time, those of us who are here, if we truly become ambassadors of the work we are doing, we will work for a greater voter participation. So I rise in favor of.

MR. HANNAH: Thank you, Mr. MacLemore.

MR. JOHN KEEN: Mr. Chairman.

MR. WHEELER: George Wheeler. I rise in opposition. I believe that this motion is premature. We haven't framed a Constitution yet. We were given the authority and the mandate to be delegates to this convention twenty years ago by those framers of that Constitution.

We were again told to be delegates by a vote of the people. The people wish us to do this work. And I would like to be able to continue the work and see what we come up with. We'll lose nothing by waiting on this motion; this motion could be made at a later date. Thank you.

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

MR. KEEN, JR.: Thank you, Mr. Chair. I'm Ralph Keen, Jr., and I rise in opposition of the motion for similarly the same purpose, that I feel it is premature at this time. I think that we should go ahead and work through this process and then evaluate at some point tomorrow, you know, the possibility of attempting to bring some conclusion to it. And if that is not plausible, and then make plans and preparations for the continuation of the process.

And I'd also just simply point out that we need to realize that the point that Mr. Poteete brought up, if we do not -- well, there's two points. One of them is that if we don't conclude this process in this time frame, then we're certainly going to miss this upcoming election and it will necessitate a special election, which may bring about other problems. I do not know. It's something to consider.

And the other point is that there's nothing that says we have to finish this work by tomorrow evening. Everything that's been posted on this convention says it would start yesterday and run through Sunday or until concluded.

Now, I understand we all work here and we all have schedules, we have lives. And this is why we should wait and evaluate this tomorrow. If we are close enough to where we think we can finalize this process by Monday or Tuesday, that's a decision that we would be better suited to make tomorrow. Thank you.

MR. HANNAH: Thank you, Mr. Keen.

MR. ROBINSON: Ricky Robinson, delegate. I've went back and forth on this. I feel it's very difficult for us to do a proper job by five o'clock Sunday, but I take Mr. Keen's point that we can continue after that.

I am mostly against this particular version by Mr. Smith for the simple reason that I do not think that the Cherokee National Holidays is an appropriate time, if we were to do this. I know that there is probably some historical rationale for that. Also, a rationale that a lot of us are going to be here at that time anyway.

But there are very many distractions during the Cherokee National Holiday, and I feel that it would be a distraction to us.

I don't know how many people here are involved in our ceremonies, but to add onto the holiday activities and the

ceremonial activities that those of us that are traditional Cherokees participate in, adding a continuation of this convention at that time would be a great disservice to those that participate in that area.

And our service to God is probably the only thing that's higher than our service to the Cherokee people.

Also, I would be receptive of this more tomorrow after we see what position we are in. Mostly, I want us to do the best job we can, so I am in opposition, but just barely.

MR. HANNAH: Thank you very much, sir. I would recognize this gentleman at the microphone.

MR. CLARKE: Mr. Chairman, my name is William Clarke, a delegate from Muskogee. I rise in favor, due to this reason. I agree with the statements that are being made, that we should not be rushing into this.

I've got a seven-year-old son who is making statements to his friends and babysitters and whatever that my father is in the process of helping make history. And that means something to me.

And each of us here, we have not only individual integrity, but collective integrity into this document. And I do not want to see us rush into something that may be around us, someone mentioned earlier, twenty, fifty, a hundred years, or whatever.

I don't particularly agree with the Cherokee Nation Holiday as the date to get back together, but I would like to see it extended further than the May 22nd, so that we can get this information out.

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

MR. HEMBREE: Mr. Chairman, I move to table this motion, lay it on the table.

MR. HANNAH: Motion to lay this motion on the table. Is there a second?

MR. JOHN KEEN: Second the motion.

MR. HANNAH: There is a second. All those in favor, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed say "no."

DELEGATES: No.

MR. HANNAH: The motion is laid on the table. We return to our activity of agenda.

And the Chair will take a moment of privilege to say this is good and healthy debate, delegates. And we're doing this about with inside of the formal process. This is the way it's supposed to be done. And I'm very proud of what we're about here.

The Chair recognizes Dr. Gourd.

MR. GOURD: Mr. Chairman, having tabled the section on the Bill of Rights, we move to Article III on citizenship. And I make a motion to approve the version of the Constitution Convention Commission relating to membership, and offer the following amendments and substitute language.

Article III, we're replacing the word "membership" with "citizenship." As has been pointed out, there are numerous references back and forth, membership, citizenship. This is for consistency.

And we're also of the opinion that you're a citizen of the nation of a government and you're a member of a social club. So this clarifies again our status in reference to nationhood.

Section 1, "All citizens of the Cherokee Nation must be citizens as proven by reference to the Dawes Commission Rolls, including the Delaware-Cherokees of Article II of the Delaware agreement dated the 8th day of May, 1867, and the Shawnee-Cherokees as of Article III of the Shawnee agreement dated the 9th day of June, 1869, and/or their descendants."

Section 2. "There shall be established a Cherokee Register, to be kept by the Registrar, for the inclusion of any Cherokee for citizenship purposes in the Cherokee Nation who presents the necessary evidence of eligibility for registration

"(a) A Registration Committee shall be established. It shall be the duty of the Registration Committee to consider the qualifications and to determine the eligibility of those applying to have their names entered in the Cherokee Register. The Registration Committee shall consist of a Registrar and two (2) assistants. All members shall be appointed by the Principal Chief, and confirmed by the Council."

"(b) There shall be a number assigned to every name, which is approved and entered into the Cherokee Register. This number shall be preceded by the three words, 'Cherokee Registry Number.'"

"(c) The decisions of the Registration Committee shall be subject to de novo review by the lower courts created by Article VII."

"Section 3. Registration as used in this article refers to the process of enrolling as a citizen of the Cherokee Nation and is not the same as the registration for voting purposes."

MR. HANNAH: Motion has been made for as submitted on changes to Article III.

DELEGATE: Second.

MR. HANNAH: And has been seconded. Any comments from you, Dr. Gourd?

MR. GOURD: Just briefly. I had sent out in the delegate packet, to me, which is probably at present one of the more definitive statements on defining who is or who came about to be on the Dawes Commission Rolls. That's an absolutely incredibly detailed discussion of what came about during those times to create the Dawes Commission Rolls, and all of the other players and events that were going on.

So it's simply a matter, and as we have had discussion in public hearings about the question of opening to other historical documents, through which one could trace ancestry for citizenship.

In the 1839 Constitution I think there was a citizens

court. This is an issue that, in our discussions on the Commission, that we were going to propose legislation that the Council would create a citizenship commission which would be charged with the responsibility to look at the historical circumstance of our ancestral location and how it came to be that people stayed there, were moved, didn't move, stayed somewhere else, came here, went somewhere else, et cetera, to arrive hopefully at a definitive statement on the validity of other historical documents in addition to or other than the Dawes Commission Roll.

It became a point which we could not resolve and felt it important enough that we propose legislation that a national study be conducted to bring a recommendation back to the people. Thank you.

MR. HANNAH: The Chair recognizes Mr. Smith.

MR. SMITH: I'd offer the amendment, sir, in paragraph 3, "The decisions of the Registration Committee shall be subject to de novo review by the lower courts created by Article VII."

My amendment would be to strike the words "de novo." And the purposes of that, to do a de novo review, is that you start your case completely over in the lower courts, thereby undermining the process of the registration committee. By striking "de novo," the lower courts would still review the decisions of the registration committee for abuse of discretion or for factual errors.

MR. HANNAH: The amendment is before us to strike the phrase "de novo." Is that correct, Mr. Smith?

MR. SMITH: It is.

MR. HANNAH: And is there a second?

DELEGATE: Second.

MR. HANNAH: And we are open for debate. The Chair hearing none, you are recognized, Mr. Hathaway.

MR. HATHAWAY: Mr. Chairman, may I ask a question of Mr. Smith? If the -- what the standard of review would be of the administrative record. Would the review of it be upholding the Commission on substantial evidence on the record or some other standard, or is that provided elsewhere?

MR. SMITH: It's not provided elsewhere. It would be what a normal appellate review or trial court review of administration for the general would be.

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

MR. CORNSILK: Delegate Cornsilk. I don't know how popular this might be, but it's something that has been brought up to me by several tribal citizens, so I thought I would just go ahead and bring it up in the form of a motion to amend. And if it turns out to be a friendly amendment, then okay. If not, I'll just bring it up as a separate motion.

MR. KEEN, JR.: Point of order.

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

MR. KEEN, JR.: We already have a motion to

amend on the floor. Are you attempting to amend his amendment?

MR. CORNSILK: Well, I'm attempting to amend the original amendment, I guess, which would be Charlie's.

MR. HANNAH: We have an amendment on the floor.

MR. CORNSILK: So do I need to wait?

MR. HANNAH: Yes, you do.

MR. CORNSILK: Okay.

MR. HANNAH: All right, gentlemen.

MR. RAPER: My name is Mark Raper, I'm a delegate, and I'm concerned with Article III, Section 1. It says "all citizens" and that bothers me. Does that -- we need to include the non-members that couldn't document or have no document evidence of their birthright.

MR. HANNAH: Mark, I'm going to interrupt you for just a moment. We want to hear your comment. If I could ask you to take just a moment, we're going to go back and stay with our process.

At this time we have an amendment that is before us to strike to phrase "de novo" from the original motion made by Dr. Gourd, and it has been seconded, and we are here for debate regarding the striking of the word "de novo."

Does anyone have any additional debate and/or question by the Chair for the originator?

MS. STROUD: Virginia Stroud, delegate. What does that word mean, "de novo"?

MR. HANNAH: Mr. Keen, would you give us a lawyer's definition of the phrase "de novo"?

MR. KEEN, JR.: As long as I'm not graded on the definition. "De novo" is a legal term, which simply means that when it is brought before the trial court, that any factual finding by the administrative court are disregarded. You, in essence, start over and the trial court acts as a trier of fact from the beginning.

If you don't have de novo appeal -- review, if you do not have de novo review, then the finding of the administrative body would be -- would not be subject to being easily overturned by a trial court. They have to give deference to those findings.

It may not be an adequate explanation. Let me try that again. For some reason, that microphone has a hard time picking up my voice. I should just call on President Clinton to help me on this.

De novo review is a legal term which means that whenever -- and it contemplates that you have an administrative level and then a district court level. There are two different levels of courts.

De novo review means that we start over in district court. Whatever findings are made in the administrative court mean nothing. If you do not have that, then the findings of the lower court do mean something, and they have to be paid respect in the district court.

So in the context of this, for example, if there's a

review board to review membership matters at the tribe, and it's an administrative board, if we have de novo review, that board declines membership for somebody, that person would have the right to bring it to district court and have those facts litigated from scratch, actually.

If we don't have de novo review, the findings of the administrative board would have to be given weight in district court. It would be more along the process of an appeal rather than starting over.

If Mr. Smith can do a better job at explaining it, I would invite him to do that.

MR. HANNAH: Thank you, Mr. Keen. Does anyone else of the delegates rise to speak to this particular issue that is before us, striking the phrase "de novo" from the motion that is made by Mr. Gourd?

Mr. Mullon, I'll recognize you at this time.

MR. MULLON: Thank you. Delegate Mullon. I rise in favor of the motion of striking the words "de novo." And as a point of clarification, again, I would ask that -- Professor, correct me if I'm wrong -- one of the most important distinctions about a de novo review is going to be essentially you retry the case. You're not limited to your administrative record, you bring in new witnesses if you forgot. You just redo your case and the evidence comes in as you present it at trial, as if you're starting out from the beginning.

That really should be the business of the registration committee. That's where you get to make your record and make your point. If you have a de novo review, you almost have two registration committees. You have one that you start with and then you have another one that you can go to if you don't like the result of the first one.

By striking the words, I agree that you would probably end up with an interpretation of the Constitution that the review will be limited to the record that would have been created before the registration committee.

MR. HANNAH: Thank you, Mr. Mullon. Mr. Rutledge, do you rise in opposition or in favor of the motion?

MR. RUTLEDGE: I rise in opposition to the motion. I understand the points that the persons in favor of this motion are putting forth. I'm a little worried that if you don't check on the executive branch, that there can be some possibility of abuse. That doesn't mean that there is abuse or there ever will be.

But the de novo review allows for retrying everything from scratch before an judge or jury, however it ends up being.

In this case I think it's important to leave that in. I think it's just -- I could be persuaded either way, I suppose, but in this case I would say let's sway on the side of protecting people as opposed to the government.

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

MR. LITTLEJOHN: Dwayne Littlejohn, delegate, and I'd like to offer a friendly amendment to Mr. Smith. On his amendment I would suggest that from the word "de novo," on, we strike everything after that and substitute in lieu thereof, "judicial review," period.

As I understand, the rest of our Constitution will provide that the Tribal Council will provide procedures. And in part of those procedures they can provide what review, what court will review it, et cetera. And I offer that as a friendly amendment.

MR. HANNAH: Mr. Smith.

MR. SMITH: I'll accept.

MR. HANNAH: We have a friendly amendment that has been accepted, and let's make sure we know what that is exactly, and that is to strike the word "de novo" and every word thereafter, so that this would effectively read, "The decisions of the Registration" --

MR. LITTLEJOHN: In that section.

MR. HANNAH: I'm sorry, sir, once again?

MR. LITTLEJOHN: Every word thereafter in that section. Not every word thereafter in the Constitution.

MR. HANNAH: That would be a novel concept. And one that we may want to bring up later in the day. Delegate Littlejohn, that's what I was referring to, okay.

Clarify for us the friendly amended motion that we have on the floor by Mr. Smith.

MR. LITTLEJOHN: It would -- "(c)" would read, "The decisions by the Registration Committee shall be subject to judicial review," period.

MR. HANNAH: Mr. Smith, that is, in fact, your amendment at this time?

MR. SMITH: Yes, accepted.

MR. HANNAH: Mr. Baker, you're recognized, sir.

MR. DONN BAKER: I rise in opposition and would say that the way they have it now, the registration committee normally is not a court of record or they're not having a court reporter, there is no record. It's generally where a committee gets together, they decide whether or not the facts, and how they want to rule. They will take care of ninety percent without having a court reporter or without to take evidence.

The de novo simply means that for those few that they cannot do, then that person would get to go to court and have a due process hearing where their rights could be litigated.

And, in my opinion, to force the registration committee to be a court of record or a recordkeeping deal where everything that is said, puts too much on the committee.

It's much like, for those that may not understand this de novo stuff, if you go to city court, and a judge tries your case, there's not a court reporter, and he makes a decision. And if he finds you guilty, then he assesses the punishment, but you get to go

and appeal.

And it's called an appeal to the district court, but there, for the first time, you have a court reporter and they just start all over. It's as if it never was heard down in the city court, and that's because there's going to be a record made.

And I think we need to understand that if we bog down in this registration committee a long record process, that I think it puts too much on the committee.

MR. HANNAH: Thank you, Mr. Baker. Mr. Cornsilk, you are recognized, sir.

MR. CORNSILK: I rise in opposition to this amendment. My reasoning being that I'm probably one of the few lay people who has taken an appeal through the registration department, the registration committee, all the way up to the Tribal Supreme Court.

And in doing so, reaching the Supreme Court with the ability to do a de novo trial, was to the advantage of the plaintiff, the person who was appealing.

It would have been to the disadvantage of that person to not be able to bring forth more evidence. The registration committee -- and I agree with Mr. Baker -- is not a trial court; they do not take testimony. They simply ask for a document. If that document is not available, then they deny you, and then you move on up through the process.

Therefore, I think that not permitting a plaintiff to bring forth all of the evidence that they may have is a disadvantage to the plaintiff and I don't think we need to be doing that to our people.

MR. HANNAH: Thank you, Mr. Cornsilk. Any other speakers rise in favor or against the motion that is before us at this time? Seeing none, the motion is to amend with the phrase, "The decisions of the Registration Committee shall be subject to judicial review."

It has been seconded, and all those in favor will signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed will say "no."

THE DELEGATES: No.

MR. HANNAH: And the Chair declares that the amendment did not pass. We return, Mr. -- thank you, sir.

MR. RAPER: I'd like to make a motion that on Article III, Section 1, that we include our brothers and sisters that are not on the Dawes Commission Rolls, to be considered citizens of the Cherokee Nation because of our boundaries. Even though we say Cherokee Nation, we do still have a boundary here in the state of Oklahoma.

We call it government. We've got a place for our government in Tahlequah. It's surrounded by our boundaries. And the people inside of it should be considered citizens. Even though they do not have documented proof, they should be considered.

As you know, the Dawes Commission Roll, that is not quite reliable because I have a grandfather death certificate saying he was born in 1900, but the Dawes Commission said he was born in 1895. So there is a discrepancy there.

MR. HANNAH: Do you have the scope of your amendment in writing, or would you restate that for us.

MR. RAPER: I would rather restate it.

MR. HANNAH: And, Mr. Secretary, will you assist us in recording the amendment as presented? Please continue, sir.

MR. RAPER: No, that's it for me.

MR. HANNAH: Are you submitting an amendment then at this time?

MR. RAPER: Yes. I haven't got it written down. It just come from thought.

MR. HANNAH: That's okay. My friend, we are here to think together, and we're not going to place you in any harm with the paper process. If you're prepared to think out loud and to make that motion, I will accept it.

MR. RAPER: I'm lost now. I need to rethink it again.

MR. HANNAH: Do you want to rethink it again?

MR. MELTON: Mr. Chair.

MR. HANNAH: Yes, sir.

MR. MELTON: Delegate Melton. I think he's wanting to insert the word "non-citizen" after the "all citizens." I think that's what he's wanting to do.

MR. HANNAH: Is that, in fact --

MR. RAPER: We've got to be careful because when you mean non-members, it might mean non-Indians too, you know.

MR. HANNAH: Would you like to retire from the microphone and put some thought then into your amendment?

MR. RAPER: Yes.

MR. HANNAH: We will do that then. Jack Baker is recognized.

MR. JACK BAKER: I would like to -- Jack Baker.

I would like to make an amendment to Section 1, that the words "as proven by reference to" be changed to "or descendants of citizens listed on."

MR. HANNAH: We have a motion to amend from Section --

MR. JACK BAKER: Section 1.

MR. HANNAH: Section 1. "As proven by reference to," and his amendment would be to supplant the language "or descendants of citizens listed on." Is there a second?

MR. CORNSILK: I'll second it.

MR. HANNAH: There is a second. We're open for debate. Mr. Cornsilk, do you rise in favor?

MR. CORNSILK: Well, I'm up here too early again. I was going to make a motion.

MR. HANNAH: That's all right. Please retire.

Sir, do you rise in favor or opposition of the amendment before us?

MR. McDANIEL: Well, I'd be in opposition when you get around to it. Something I want to know, what is the rationalization behind this?

MR. HANNAH: What's what, sir?

MR. McDANIEL: What is his rationalization?

MR. HANNAH: If that's the scope of your question, then I'll ask Mr. Baker.

MR. JACK BAKER: Where it says, "as proven by reference to," that does not mean you have to be a direct descendant of someone on the Dawes Roll. Someone who was a non-citizen or whose family was never a citizen of the Cherokee Nation, who never came here, could have a cousin or a great uncle or what have you that was on the Dawes Roll.

And depending on how the court or the registration committee interpreted it, they could be eligible under this clause where it says "as proven by reference to."

MR. McDANIEL: I don't see the necessity of changing it at all. I can't see it.

MR. HANNAH: Thank you very much, sir. Thank you, Mr. Baker. Other individuals mounting to the microphone in opposition or in support of the amendment that is before us at this time?

MR. DOWTY: Point of clarification.

MR. HANNAH: Yes, sir. State your name, please.

MR. DOWTY: Did the motion -- Darrell Dowty, delegate. Did the motion strike the language "as proven by reference to" and substitute the language, "or descendants of citizens listed on."

MR. JACK BAKER: Yes.

MR. HANNAH: Yes. That's quite all right, sir. You are recognized. What is your question?

MR. CROUCH: Point of question. Isn't it true, if you strike the issue about "proven by reference to," how would original enrollees who are on that roll be considered?

All citizens of the Cherokee Nation must be original enrollee wouldn't be someone who is a descendant of someone on the roll. I think it should be additive to his language, not substitutive.

MR. HANNAH: Mr. Baker. Any clarification whatsoever? You did not hear. That's quite all right. Thank you.

Any other delegates rise in support or opposition to the amendment that is before us at this time?

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: I rise in support. I worked in the registration office for three years, and I can tell you that from my experience and the research that I have done, there are a number of persons who are not listed on the Dawes Commission Rolls who would probably flock to our doors and attempt to gain

citizenship whenever they have never had that before in their ancestry, simply by referencing the Dawes Roll and some connection to it.

My point in case would be the descendants of Henryetta Bean who was a non-citizen of the Cherokee Nation, resident of Kilgore, Texas. She and her husband attempted to gain citizenship in the Cherokee Nation, having not lived there, having never lived in the Cherokee Nation.

Yet her records are in the Dawes Commission Roll and she could, by -- her descendants could say, by reference to the Dawes Commission Roll, gain citizenship. It's a loophole.

MR. HANNAH: Thank you, Mr. Cornsilk. Any other delegates rise in favor or opposition of the amendment that is presented? Mr. Mullon, you're recognized.

MR. MULLON: I would like to suggest one of these friendly amendments that you are using, and it would be to substitute the word "enrollees" for the word "citizen."

MR. HANNAH: Therefore, it would read that all enrollees of the Cherokee Nation --

MR. MULLON: No, all citizens.

MR. HANNAH: All citizens of the Cherokee Nation must be enrollees; is that correct?

MR. MULLON: Or descendants of enrollees.

MR. HANNAH: Or descendants of enrollees. You make that by way of one of our infamous friendly amendments. Jack Baker, what say you?

MR. JACK BAKER: I accept.

MR. HANNAH: He accepts. Now we have an amendment on the floor that reads as you see on the screen. The Chair still entertains debate at this point. Do any of you lining up of over there rise in opposition or support of the amendment? Mr. Cornsilk.

MR. CORNSILK: Delegate Cornsilk. I would support that with another friendly amendment, if I might, to make that "original enrollee," which is the generally accepted term today for persons listed on the Dawes Commission Roll.

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

MR. JACK BAKER: That's fine.

MR. HANNAH: That's redundant, but that's fine.

I think it's redundant because if they're enrollees, then they're enrollees.

MR. CORNSILK: Persons who are listed on the tribal registry are also enrollees; they're enrolled with the tribe.

MR. HEMBREE: They're not enrolled if they're not on the Dawes Commission.

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

MR. JACK BAKER: I would accept it.

MR. HANNAH: Mr. Baker has accepted the friendly amendment to be inclusive of the "original enrollees." Let me tell you, you are doing a marvelous job over here. And if not for this

young lady who has volunteered here, by the way, folks, we would be in a proverbial world of hurt. So the Chair will direct all delegates to thank her at the end of the day, if we survive this process.

The phrase now will be read by friendly amendment that all citizens of the Cherokee Nation must be original enrollees. Is this correct, Mr. Baker?

MR. JACK BAKER: Or descendants.

MR. HANNAH: Or descendants of original enrollees. And the floor is still open for debate, and the Chair would entertain Mr. Hembree.

MR. HEMBREE: Mr. Chairman, I move to call the question and close debate at this time.

MR. HANNAH: We have a motion to close debate and to call the question.

DELEGATE: Second.

MR. HANNAH: It's been seconded. All those in favor please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposing said "no."

THE DELEGATES: No.

MR. HANNAH: It's a little close. A little close. Therefore, the Chair will instruct the secretary to make a row-by-row count. And all --

MR. HEMBREE: Mr. Chairman, I will withdraw the motion.

MR. HANNAH: Thank you. You almost started us down that road, didn't you. And we had a whole new way of counting.

I was going to have everyone take off their right shoe and hold it up. And all of those opposed were going to take off their left shoe. Since my friendly delegates over here are still having a problem between the phrase of four and four. But we're going to work that out at the next meal, ladies. We're going to do that.

And debate is still open at this time. The Chair recognizes Delegate Lay.

MR. LAY: Delegate Lay. I'm not sure I understand what we're doing. We're playing with words here. We've gone by this document for twenty years, and I understand -- I can understand the wordage difference. Some of you who are good English majors might play with this a little bit, but I'm afraid if we keep adding this "original enrollees," newborns, we just keep going forever on this thing.

Is this more in the point of a style, a finished writing thing, more so than what we're trying to get into the situation? Thank you.

MR. HANNAH: Thank you, Mr. Lay. And if the Chair may comment, I would think that the convention would see this as a -- unfortunately, while it is only looking at one or two words, that we would see this as a rule of substance.

And the Chair would look for a series of head nods, if

you are in -- agree with that. The nods have it. Therefore, debate is still open on the amendment that is before us. Debate is still open. If you rise in favor or against the motion that is before us, the amendment that is before us at this time.

MR. CORNSILK: Which is Mr. Baker's amendment?

MR. HANNAH: Which is Mr. Baker's amendment.

We're going to get to you, I promise. You're recognized, sir. Do you rise in favor or against?

MR. DAVIS: Delegate Bill Davis. I rise in favor of the amendment, and I still think the other roll should be recognized if a person showed burden of proof and everything. Thank you.

MR. HANNAH: Thank you for your comments. Any other delegates rise in favor or in opposition to the amendments before us? Mr. Poteete, you're recognized.

MR. POTEETE: Mr. Baker, could someone explain to me, this doesn't reference Cherokees by blood. So how many rolls are there besides the Delaware, the Shawnee, the Cherokee roll?

MR. HANNAH: Mr. Baker.

MR. JACK BAKER: Jack Baker. I did not get into that. I was going by the wording that was already there. But this would also -- because I was assuming someone else would open that up for debate. But the Dawes Commission Rolls would include the Freedmen, and the intermarried whites.

MR. POTEETE: And so as this is written, and as it is currently amended, or with your amendment, that would open up the intermarried whites, the freedmen, and all of those people, to citizenship.

MR. JACK BAKER: My amendment would not change that fact. It would already be there where it says the Dawes Commission Rolls. And I'm not dealing with that. That was not part of my amendment.

MR. POTEETE: So that needs to be done by a later --

MR. JACK BAKER: That would be a separate amendment.

MR. HANNAH: Thank you two for determining that. Anyone rise in opposition or in favor of the amendment that is before us at this time? Hearing no other debate, the Chair will move for a vote.

And the motion that is before us is to amend the language in Section 1 of Article III. Section 1. "All citizens of the Cherokee Nation must be original enrollees or descendants of original enrollees listed on the Dawes Commission Rolls, including the Delaware-Cherokees of Article II of the Delaware agreement dated the 8th day of May, 1867, and the Shawnee-Cherokees as of Article III of the Shawnee Agreement dated the 9th day of June, 1869, and/or their descendants."

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

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And the Chair declares that the motion carries and, therefore, the language is before us.

Mr. Cornsilk, you're recognized.

MR. CORNSILK: Thank you, Mr. Chairman.

Delegate Cornsilk. Again, I'll reiterate what I said earlier, which is that this proposed amendment to the Section 1 may be controversial, may not be popular, may be popular, I don't know.

MR. HANNAH: You're submitting an amendment at this time?

MR. CORNSILK: I'm submitting an amendment. I have been asked to submit this by numerous tribal citizens, and that is what I'm here for, to represent them, and so I submit it. Having no opinion whatsoever, one way or the other.

MR. HANNAH: We're here to hear it.

MR. CORNSILK: I've got three minutes now. I'm going to use every second of it. I would offer an amendment to Article III, Section 1, that it would be amended to include at the very end, after "and/or their descendants," to say, "and their spouses."

MR. HANNAH: There is an amendment on the floor to include "and their spouses" in Article III, Section 1, final sentence. Is there a second?

The Chair hearing no second, instructs that --

MR. CORNSILK: I thought I heard one.

DELEGATE: I'll second it.

MR. HANNAH: All right. Thank you very much.

MR. CORNSILK: And I might take the last thirty seconds of my three minutes to say that historically the Cherokee people have always included their entire family as a part of tribe. There is no reason that we cannot pull these people into the tribe rather than have them pull us out.

MR. KEEN, JR.: Point of order.

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

MR. KEEN, JR.: Parliamentary procedure is that the motion itself, as I understand it, has no time limit. It's when the debate starts, is when the time limit applies. So, and also --

MR. CORNSILK: So I can still talk.

MR. KEEN, JR.: Just for future reference. And also, the individuals have the time limit and that time limit is five minutes, under the standing rules.

MR. HANNAH: That's true. With unlimited number of people speaking. Mr. Smith helped us with that motion this morning.

So, therefore, we have an amendment to -- for those of you who are wondering, we are, in fact, working on Article III, Section 1, final sentence, inclusive of the phrase "spouses." And it has been sounded. The floor is open for debate. Mr. Baker, you are recognized.

MR. DONN BAKER: I stand in opposition. As a divorce lawyer for twenty years, you all are creating a nightmare. They come and go. You can choose -- I mean, we can't help who we are by blood, and that doesn't change. But the other does change, and I think it would be a nightmare.

MR. HANNAH: Mr. Baker, thank you very much. Any other of our delegates rise in opposition or in favor of the motion? Mr. Keen, you're recognized.

MR. JOHN KEEN: John Keen, delegate. I rise in opposition on the merits of the motion.

MR. HANNAH: On the merits of the motion?

MR. JOHN KEEN: And also call for previous question.

MR. HANNAH: Call for previous question. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. The vote is for calling the question. At this time, all of those in favor signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

THE DELEGATES: (No response)

MR. HANNAH: So, therefore, we will, in fact, call the question. The question is to amend Article III, Section 1, to include the phrase "and their spouses."

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

THE DELEGATES: (No response)

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

THE DELEGATES: No.

MR. HANNAH: The Chair declares that as not being passed. Delegate Baker, thank you for your eloquence. I know it's perhaps out of form for the Chair, but you brought some jocularly to the room. I hope the record reflects that great laughter was had in the chamber here.

MR. RAPER: Mr. Chairman.

MR. HANNAH: Yes, sir.

MR. RAPER: I'd like to make a friendly amendment on Article III, Section 1.

MR. HANNAH: Amendment to Article III is being presented at this time. Draw close.

MR. RAPER: Right after "descendant" maybe we could add "or any person residing with the territorial jurisdiction of the Cherokee Nation or who has immediate kinship with a citizen."

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. We have an amendment which is about to be installed on the screen. I am hard pressed to have immediate recall on these, folks. I hope that you will be patient with the Chair, because I would much rather that we take enough time to see exactly what it is that we're debating,

rather than me attempt to regurgitate some of these phrases. And if you can think of a way for me to be about this in a better method, please make your way here.

MR. RUTLEDGE: Mr. Chairman.

MR. HANNAH: Mr. Rutledge.

MR. RUTLEDGE: Is that an amendment to Section 3 or Section 1?

MR. HANNAH: Article III, Section 1. The amendment is before you. And I'll simply pick it up, "and/or persons residing within the territorial jurisdiction of the Cherokee Nation or who has an immediate kinship with a citizen."

There has been a second, the floor is open for debate. Ricky, you are identified.

MR. ROBINSON: Ricky Robinson, delegate. With great respect to Mr. Raper, and I know several members of his family, I know -- the reason for this is very unfortunate. Many of our people do not have birth certificates. My grandmother was the same way for many years. It took us about twenty years to get a birth certificate, and it is possible. It's just really hard sometimes to get a birth or death certificate.

In my own case, I actually had to wait for a grandfather to pass away before I could use his death certificate. (Laughter) But that's awful.

On the side, my wife went to being from a quarter to a full blood, simply because we finally got two birth certificates processed.

But I am adamantly against this because, once again, it would be, as Mr. Baker talked about earlier, the earlier minute, it would be an administrative nightmare. It could also include people that have no Cherokee blood whatsoever in this definition. But it just would not be practical in the real world. Thank you.

MR. HANNAH: The floor would recognize a delegate speaking in favor of the amendment. Is there a delegate in favor of the amendment?

MS. BIRMINGHAM: Point of clarification.

MR. HANNAH: Yes, ma'am.

MS. BIRMINGHAM: Would the divorce lawyer clarify "immediate kinship," what problems might arise from that?

MR. HANNAH: Mr. Baker, would you -- you will now be known for time immemorial to the Cherokee people as a divorce lawyer.

MR. DONN BAKER: That's better than the criminal lawyer.

MR. HANNAH: Then let the record show that your citizenship has been upgraded.

MR. DONN BAKER: The kinship is another nightmare. Legally, I don't know what kinship would be. That's kind of a colloquial term and doesn't have -- to my knowledge, it doesn't have legal definition.

But that, as I see it, isn't any different than the one

before. It's going to open up anybody that lives here. And I agree with Delegate Robinson, it will be a nightmare.

MR. HANNAH: Thank you very much. Does anyone rise in favor of the amendment as presented?

MS. STARR-SCOTT: Mr. Chairman.

MR. HANNAH: Yes, ma'am.

MS. STARR-SCOTT: Starr-Scott, delegate. I arise opposing the amendment and would caution this audience -- or delegates, before we make any drastic changes in this, that we be very cautious with our language because we do not want to include people who are not Cherokee. So when we start playing around with these words, that could very easily happen. Thank you.

MR. HANNAH: Thank you, ma'am. Sir, do you rise in favor or in opposition to the amendment that is before us?

MR. DOWNING: I'm trying to decide. I think in favor.

MR. HANNAH: You would be the second delegate that has mounted to the stand today uncertain of his intent. There's precedence for his standing there.

MR. DOWNING: Carl Downing. I agree with most of the things that have been said in opposition. But on the other side, I am concerned about those Cherokees who are descendants of the -- what I classify as the brave ones who would not sign the Dawes Roll. How do we deal with that?

MR. HANNAH: Mr. Gourd.

MR. GOURD: Mr. Chairman, just one brief comment. As I finish in the initial reading, I think I made the point that the Commission, we wrestled with this whole issue, and one of our legislative proposals is going to be to establish a citizenship commission to actually go through and study this.

For present purposes, we felt that the current language, since it has worked so far, was sufficient until such time that a proper body of study can be put together. So that might resolve some of the discussion here. I don't think we can resolve this today.

MR. HANNAH: Thank you for the clarification, sir. Mr. Cornsilk.

MR. CORNSILK: Thank you, Mr. Chairman. Just a point of information for the delegates here, that in the fourteen years that the Dawes Commission was operating in the Cherokee Nation, throngs and throngs of people came to the Nation, came to the borders of Indian territory, trying to get on the Dawes Commission Roll.

The full bloods were placed on the roll against their will, they were listed there by the testimony of other persons, and there were thousands of people who were rejected simply because they had no Indian blood whatsoever or no proof thereof.

And it's just simply a myth that there are hundreds of thousands of people out there without enrollment. That just is not true. There are hundreds of thousands of people out there who

cannot prove anything, would love to have enrollment.

And we need to be very cautious in how we word these kinds of amendments. And I rise in opposition to this amendment because it opens a door that we cannot afford to have open. All of the persons who would flock to us, cause great expense.

In 1895 the Cherokee Nation Citizenship Court was nearly destroyed, the Cherokee Nation was nearly shut down because of the expense of having to deal with all of the persons who were claiming Cherokee ancestry. So I would oppose this amendment.

MR. HANNAH: Thank you, Mr. Cornsilk. Good lady from Houston, you are recognized.

MS. MILLER: My name is Brandy Miller, I'm from Tahlequah/Houston. I would like to suggest as -- I guess as a friendly amendment, to add there a statement that "or any person who is a native Cherokee speaker or has an immediate blood kinship with a citizen."

MR. HANNAH: Where is our author at this time? Now, what we're doing -- Charles, would you assist? Would you restate?

MS. MILLER: I would like to add in there a statement that "or a person who is a native Cherokee speaker," because we have dark skinned Indians who speak Cherokee who are not citizens of the Cherokee Nation. And I know someone who speaks Cherokee has got to be Cherokee; he needs to be a citizen.

MR. RAPER: The friendly amendment is accepted.

MR. HANNAH: The amendment that is before us at this time, ladies and gentlemen -- now, let's all draw close. Let's all draw close here for a moment. The friendly amendment has been accepted, "and/or their descendants or any person who is a native Cherokee speaker or who is residing within the territorial jurisdiction of the Cherokee Nation or who has an immediate kinship with a citizen."

The floor is open for debate. The Chair would recognize the good lady from Houston.

MS. SCOTT: I think I speak in favor of the amendment, but I would -- because I do think this is the one opportunity that we're all going to have to right some wrongs and to offer some services to people that heretofore have not had them, and we need to keep those people viable and supported. So I would speak in favor of inclusion of the Native American Cherokee speaking people in this area.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: Mr. Chairman, Delegate Cornsilk.

I rise in opposition to that inclusion, and my reasoning being that the eastern band of Cherokees have approximately three thousand native speakers of the Cherokee language, and we would be including them in our citizenship.

And I would also inquire as to how you can determine that someone is a native speaker. We have Dr. Dwayne King who can speak the Cherokee language as well as my mother-in-law, and he is a white

man.

MR. HANNAH: The good delegate from Muskogee is

--

MR. McDANIEL: I just want to say that I'm in favor of leaving the language just exactly like it is. Why change it? It's been that way since 1907. I mean, these people come in here from somewhere and they want to -- just makes my mad. I don't like to --

MR. HANNAH: Thank you, sir. I would ask you to rest the microphone and rest your temper. Everything will be fine here.

The good lady from Ramona is identified.

MS. McINTOSH: Delegate Dorothy Jean McIntosh. I speak in opposition to the amendment. I speak Russian, I have no intention of becoming a Russian citizen.

MR. HANNAH: Ricky, you are recognized.

MR. ROBINSON: I speak German somewhat, and I'm not a German citizen.

Once again, I'm speaking in opposition simply because another item is put up. And David Cornsilk stole a lot of my thunder.

But on the white side of my family, I have five or six individuals that speak Cherokee as good as any full blood walking around. In a part of the Cherokee Nation over around Gore and Vian, we have people that live on both sides, and have since 1835, and there are many Creek people, full blood Creeks, that speak the Cherokee as a native language. So this would include those too.

So once again, I feel like we need to keep it to the Dawes Commission by blood.

MR. HANNAH: Chair recognizes Delegate Hembree.

MR. HEMBREE: I move to call the question and debate at this time.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: All those in favor of calling the question and debate, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed say "no."

THE DELEGATES: (No response)

MR. HANNAH: Then the question is before us at this time. And the amendment is -- I'll pick it up, "and their descendants or any person who is a native Cherokee speaker or who is residing within the territorial jurisdiction of the Cherokee Nation or who has an immediate kinship with a citizen."

Point of order for Mary Ellen.

MS. MEREDITH: Point of personal privilege.

MR. HANNAH: Yes, ma'am.

MS. MEREDITH: Is this amendment saying that anyone who is residing within the territorial jurisdiction of the Cherokee Nation, does that mean anybody who is residing within those

fourteen counties, black, white, or indifferent?

MR. HANNAH: As written. Thank you for that point of clarification. I will take only a few more comments, young lady.

MS. MILLER: You're talking to somebody else.

MR. HANNAH: You should accept the compliment from the Chair whenever offered.

MS. MILLER: Because who was a native Cherokee speaker? And what I meant to say, or my proposal was, and who reside within the Cherokee territory.

MR. HANNAH: We will make sure that the language is, in fact, correct as presented. Our scribe -- has it now been inserted?

MS. LANGLEY: Yes.

MR. HANNAH: "Or any person who is a native Cherokee speaker and who is residing within the territorial jurisdiction of the Cherokee Nation or who has immediate kinship with a citizen."

All of those in favor of the amendment before us at this time will signify by saying "aye."

THE DELEGATES: (No response)

MR. HANNAH: Those opposed say "no."

THE DELEGATES: No.

MR. HANNAH: The Chair declares the amendment did not pass. Therefore --

MR. SCOTT: Mr. Chairman.

MR. HANNAH: Mr. Scott, you are recognized. Do you rise to provide us with an amendment?

MR. SMITH: I do.

MR. HANNAH: And that would be?

MR. SCOTT: That would be on this same article here, at the end of Section 1, add what is in the pamphlet -- or in the copies I handed out.

MR. HANNAH: Would you read that for us, sir, your amendment?

MR. SCOTT: Well, it's fairly long.

"The descendants are to be established by a traceable Cherokee by blood, genealogical descendant, including the Dawes Cherokee and so forth, the Shawnee-Cherokees. Persons proved to be eligible for citizenship shall be deemed to have been citizens of the Cherokee Nation from birth.

Membership in one of the seven clans shall be determined by maternal descent, except in cases where maternal Cherokee descent line is broken parental Cherokee descent shall be used only to cross the resulting death in any event that clan membership cannot be determined from surviving records.

A citizen may be elected -- or, a citizen may elect or be adopted into one of the seven clans according to the procedures to be set by -- I put in Grand Council. Whereas historic socioeconomic and political circumstances have caused Cherokees to disperse

broadly, citizenship, clan affiliation, and representation shall not be denied for place of residence outside the territorial bounds of the Cherokee Nation."

And I have a Section 2.

MR. HANNAH: At this time, is it correct that we are taking debate on Section 1 or do we accept his amendment for Section 2?

MR. SCOTT: I would be acceptable to handling Section 1 and then Section 2.

MR. HANNAH: Mr. Keen, do you have a comment?

MR. KEEN, JR.: Yes, Mr. Chairman. Delegate Ralph Keen, Jr. I would move that we attack this thing by section. And we've been dealing with Section 1 all of this time, so I would move to divide the question by section.

MR. HANNAH: There is a motion to divide the question by section.

MR. HEMBREE: Consent.

MR. HANNAH: Without objection.

MR. HEMBREE: On consent.

MR. HANNAH: The Chair hearing no objection, we will move to review these by section. Mr. Scott has placed before us an amendment then with regard to Section 1.

And it reads: "The eligibility for citizenship in the Cherokee will be established by traceable Cherokee by blood genealogical descent, including the Dawes or Delaware-Cherokees and Shawnee-Cherokees. Persons provided to be eligible for citizenship shall be deemed to have been citizens of the Cherokee Nation from birth.

Membership in one of seven clans shall be determined by maternally descendant except in cases when the maternally Cherokee descendant line is broken, parental Cherokee descent may be used only to cross the resulting gap.

In the event that a clan membership cannot be determined for surviving records, a citizen may elect and/or be adopted into one of the seven clans according to the procedures to be set by the Grand Council. Whereas historic, socioeconomic, and political circumstances have caused the Cherokees to disperse broadly, citizenship clan affiliation or representation shall not be denied for place of residence outside of the territorial boundaries of the Cherokee Nation."

Does the Chair hear a second?

DELEGATE: Second.

MR. HANNAH: There is a second, floor is open for debate. Do you rise for or against?

MR. CORNSILK: I rise in opposition to this amendment, mostly because of how complicated it is and that it also brings forward the notion of Cherokee by blood, which is not a legal term. Defining persons of Cherokee Indian descent, excluding those persons who are not of Cherokee Indian descent who probably could be eligible for or known with the Tribe, and opens this process and the

Cherokee Nation up to a huge lawsuit from the Freedmen. So I would caution against that.

MR. HANNAH: Dr. Hook, you are recognized.

MR. HOOK: I would just like to ask for a point of clarification from Dr. Gourd. You said that there was a recommendation that there would be a committee formed to evaluate this whole issue. How much authority would their recommendation have, their findings? Would they be able to supersede the Constitution? What could they do?

MR. GOURD: Our idea on legislative issues, especially in reference to citizenship, would be that it would be a commission charged with the responsibility to research all of these issues, have public hearings, research paper, genealogical folks and historians, and come back then with recommendations at that point in time to be placed to a vote of the people to amend the Constitution, because that commission should not have that authority.

It should be one where they come back with legislative issues that may be relevant or, more importantly, that they would have amendments to this section that would be placed at the next regular vote or, if necessary, to call for a special election. But it would be one for referral only. Thank you.

MR. HANNAH: The Chair recognizes Dr. Robinson.

MR. ROBINSON: Ricky Robinson, delegate. I'm once again in opposition to this, for some of the same reasons that Mr. Cornsilk was. It's too wordy, it's too complicated, too vague.

Also, this body, the Constitutional Convention, and I propose the Cherokee Nation, does not have the authority to change the clan system that has been in effect for, if not hundreds, thousands of years. We simply do not have this right.

This would be completely offensive to all the ceremonial grounds in the Cherokee Nation. It would be offensive to all Keetoowah people. We just do not have the right to do this. You get your clan from your mother.

MR. HANNAH: Would you yield the floor? Thank you, sir. Are there any delegates to speak in favor of the amendments before us at this time? Hearing none, the Chair will move to take a vote on the amendment that is before us at this time.

It is as read and understood by the delegates. Anyone need clarification? If you do, I will gladly read that again to you. All of those in favor of this amendment, please signify by saying "aye."

THE DELEGATES: (No response)

MR. HANNAH: Those opposed, "no."

THE DELEGATES: No.

MR. HANNAH: And the Chair declares that the amendment did not carry. The Chair recognizes Troy Wayne Poteete. Troy, do you mount for an amendment?

MR. POTEETE: No, I think what I would like to do is call your attention to the fact that the way this is written, according to current court decisions, people who are on the

intermarried citizens roll and other rolls are not included.

But the court could determine to change that definition.

So what I propose to do is let better minds than mine have more time than they have had to deal with this. There's a lot of different thought. To lay this on the table until a later time, until after we've had a break, until after we've had our next meal, and people have had an opportunity to talk about some more limiting language here. And then we should bring this up at a time directly and move forward with it.

Maybe there would be some amendments that have a strong consensus that would come out of that. So my proposal is to lay this Section 1 on the table.

MR. HANNAH: We have a motion to lay on the table Section 1. Is there a second? Hearing none, the debate continues.

MR. HEMBREE: Mr. Chairman.

MR. HANNAH: Mr. Hembree.

MR. HEMBREE: Mr. Chairman, I move to call the question and close debate on Article III, Section 1.

DELEGATE: I second that motion, Chairman.

MR. HANNAH: We have a motion close debate and call the question. It's been seconded. Those in favor please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

THE DELEGATES: (No response)

MR. HANNAH: And the ayes have it. Therefore, debate is closed and the question shall be called. And the question is, on Section 1 as presented:

"All citizens of the Cherokee Nation must be original enrollees or descendants of original enrollees, listed on the Dawes Commission Rolls, including the Delaware-Cherokees of Article II of the Delaware Agreement dated the 8th day of May, 1867, and the Shawnee-Cherokees as of Article III of the Shawnee Agreement dated the 9th day of June, 1869, and/or their descendants."

Those in favor of the motion on the floor at this time, please signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And the Chair declares that the motion carries and that section has been approved. Dr. Gourd, you are recognized.

MR. GOURD: Mr. Chairman, we have read the proposed amendment as endorsed by the Constitution Commission contained in Section 2 which establishes a register and a registration committee and the process through which people become registered. Should I read that again? Are we doing this section by section? Do I read just that one or shall we --

MR. HANNAH: In actuality, I believe you have a

motion on the floor for the entirety of Article III.

MR. GOURD: Yes, sir.

MR. HANNAH: So at this point, simply because this is a democratic process, the Chair will ask if there is debate or amendments to subsidiary sections that have not been enacted on at this time in Section 2 and 3. One at a time, Section 2.

MR. SCOTT: Mr. Chairman.

MR. HANNAH: Mr. Scott, you are recognized. And thank you, my friend from Grove for that reaching the microphone.

MR. SCOTT: I think what I have is similar to Section 2(a). Okay. Dealing with Section (b), I propose that the wording be:

"To every name which is approved for citizenship and entered in the Cherokee register there shall be assigned a Cherokee register number which shall be recorded along with data that will include date of birth, gender, clan, and degree of Cherokee index.

The Cherokee citizens degree, the Cherokee index should be determined by procedure to be established by the -- again, I used Grand Council. But can in no case be less than the equivalent of the number that would appear on the certificate of degree of Indian blood.

Each registered citizen of the Cherokee Nation shall be issued an identification card bearing the seal of the Cherokee Nation and capable of being automatically stand to read the above noted."

MR. HANNAH: Is the scope of your amendment, sir, to supplant language with that that you have stated to us by way of Section 2, item (b). And we have an amendment before us. Is there a second?

Hearing none, the amendment is not brought forward to the podium.

Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, Delegate Cornsilk.

I offer a friendly amendment to this, to Section 2. And that would be the portion above part (a) of Section 2 where it describes the duties of the registrar. There shall be established a Cherokee register to be kept by the registrar for the inclusion of any Cherokee for citizenship purposes in the Cherokee Nation who presents the necessary evidence of eligibility for registration.

I would include, "The Council may empower the registrar to keep and maintain other vital records."

My purpose in offering this amendment is that at some point the Cherokee Nation may be in a position to and required to maintain birth and death records.

MR. HANNAH: Dr. Gourd and members of the Commission.

MR. GOURD: No objection. I think that contemplates something similar to what the State Department of Vital Statistics or the division where they maintain birth and death records and that sort. I think that's, you know, with an eye toward

the possibility of that being a function of the Nation and doing it inside our own auspices rather than continually referring to.

As an example, the State of Oklahoma, early on there were two races of people, white and black, and a lot of the death certificates, even as late as into the 1980's and early '90s, the funeral home directors were the one who determined the race or ethnicity of the deceased. They just marked it.

MR. HANNAH: Mr. Gourd, thank you. If you'll yield the microphone. Mr. Cornsilk, please state the verbiage for us again so we'll -- for the remainder of the Commission.

MR. CORNSILK: Simply in addition to the end of that first paragraph, and it simply says, "The Council may empower the registrar to keep and maintain other vital records."

MR. HANNAH: "The Council may empower the registrar to keep and maintain other vital records." What say you, Commissioner?

MR. KEEN, JR.: Mr. Chairman, I have no objection to that.

MR. HANNAH: Ms. Coon, do you have an objection to this friendly amendment? None whatsoever. Therefore, Mr. Gourd, this will be accepted.

And the amendment that is before us at this time is Section 2, with the amended language, as you see. "The Council may empower the registrar to keep and maintain other vital records."

DELEGATE: Call for the question.

MR. HANNAH: Call for the question.

DELEGATE: Second.

MR. HANNAH: And all of those in favor, signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

THE DELEGATES: (No response)

MR. HANNAH: And we are prepared for the question, and the question is with regard to approval of Section 2.

"There shall be established a Cherokee register to be kept by the registrar for the inclusion of any Cherokee for citizenship purposes in the Cherokee Nation who presents the necessary evidence of eligibility for registration. The Council may empower the registrar to keep and maintain other vital records."

All of those in favor of the motion before us at this time, please signify by saying "aye".

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: (No response)

MR. HANNAH: And the Chair declares that this section has been approved. We move to Section 3. Mr. Hembree.

MR. HEMBREE: Mr. Chairman, I move the previous question on Section 3, Article III, Section 3.

MR. HANNAH: Move the question. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is. Those in favor signify by saying "aye".

THE DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

THE DELEGATES: (No response)

MR. HANNAH: The motion carries and Section 3 is before us for approval. Section 3 reading, and the motion, therefore:

"Registration as used in this article refers to the process of enrolling as a citizen of the Cherokee Nation and is not the same as the registration for voting purposes."

All of those in favor of the motion before us at this time please signify by saying "aye".

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: (No response)

MR. HANNAH: And Section 3 is approved. We move to Article IV, Distribution of Powers.

MR. HOOK: Point of information.

MR. HANNAH: Yes, sir.

MR. HOOK: How are we going on Article II?

MR. HANNAH: I beg your pardon?

MR. HOOK: Article II? Are we addressing it or what?

MR. HANNAH: Article II has been tabled and we have not had a motion to bring it off the table. You are recognized, sir.

MR. GUNTER: Jerry Gunter, delegate. I move that we untable Article II.

MR. CORNSILK: Second.

MR. HANNAH: And we have a motion to untable Article II and it has just been seconded. Those in favor of reintroducing Article II for debate please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

DELEGATES: No.

MR. HANNAH: And the article, therefore, is brought forth. We return to Article II.

DELEGATE: Mr. Chairman.

MR. HANNAH: You are recognized.

DELEGATE: Sir, I would like to, I guess, a personal --

MR. HANNAH: Sir, we apologize, but our friend from Grove will hand you the microphone. Please state your name and tell us --

DELEGATE: This would be a personal relief. Can we take a break before we do this?

MR. HANNAH: That very notion was debated here at this table just a few moments ago. I want it to be known that my

respected elder was the one who said, no, we've got good momentum, I can stand this.

And we'll let the record reflect that that is another positive attribute of our secretary. And with that, if it is not objectionable to the convention, we're going to take a ten minute break, ladies and gentlemen. We will return to this chamber in ten minutes.

(recess taken)

MR. HANNAH: Mr. Gunter, did you not initiate a motion before we recessed?

MR. GUNTER: Yes, I did.

MR. HANNAH: I realize we had a second for that, and I will tell you that during the recess I had an opportunity to speak with those individuals that are offering Section 2. They believe that they are within fifteen minutes of having that piece.

MR. GUNTER: Okay. I'll withdraw my motion.

MR. HANNAH: All right, sir. Thank you very much.

MS. JORDAN: Mr. Chairman, am I to understand that we don't need to move to table the Bill of Rights, it's already been taken off?

MR. HANNAH: We have Article II that is on the table. Did we vote to take it off the table? Mr. Gunter had that motion.

MS. JORDAN: I believe we did.

MR. HANNAH: The Chair was obviously in another world whenever that took place.

MS. JORDAN: Mr. Chairman, Delegate Jordan would move to table Article II. We're still working on the information to present to the body.

MR. HANNAH: Motion to table Article II. Is there a second?

DELEGATE: Second.

MR. HANNAH: And those in favor signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: (No response)

MR. HANNAH: And Article II goes back on the table. Dr. Gourd, you are recognized.

MR. GOURD: Mr. Chairman, I make a motion to approve Article IV, Distribution of Powers, as submitted by the Constitution Convention Commission, which reads as follows:

"The powers of the government of the Cherokee Nation shall be divided into three (3) separate departments: Legislative, Executive and Judicial; and except as provided in this Constitution, the Legislative, Executive and Judicial departments of the government shall be separate and distinct and neither shall exercise the powers properly belonging to either of the others."

MR. KEEN, JR.: Point of order, sir.

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

MR. KEEN, JR.: Dr. Gourd, this language is the unchanged from the original Constitution; am I correct?

MR. HANNAH: This language is unchanged from the original Constitution.

MR. KEEN, JR.: Then, in fact, we do not need to make a motion on behalf of the Commission.

MR. GOURD: Motion to approve then.

MR. HANNAH: We need no motion whatsoever.

MR. KEEN, JR.: The parliamentarian pointed out, we do need it on the table to continue a complete document.

MR. HANNAH: We accept the motion before, and is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second and the floor is open for debate. Do you rise in favor or in opposition to the proposal?

MS. HAGERSTRAND: I would submit that we need to substitute some language in there. Instead of "department," that we use word "branches."

MR. CORNSILK: Thank you, Marion. That's what I was thinking.

MR. HANNAH: Wow, a harmonic convergence of amendments, from across the room, no less.

You have an amendment then before us to strike the word "departments" and the word "branches" has been placed. And that amendment -- and is there a second?

DELEGATE: Second.

MR. HANNAH: And the floor is open for debate.

MR. DOWTY: Delegate Dowty. Is that in each place where the word "department" exists in the article?

MS. HAGERSTRAND: Yes.

MR. HANNAH: In the article; is that correct? Very well. 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: Those in favor signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Opposed said "no."

THE DELEGATES: (No response)

MR. HANNAH: And the question is before us on this particular Article IV, Distribution of Powers.

"The powers of the government of the Cherokee Nation shall be divided into three (3) separate branches: Legislative, Executive and Judicial; and except as provided in this Constitution, the Legislative, Executive and Judicial branches of government shall be separate and distinct and neither shall exercise the powers

properly belonging to either of the others."

Those in favor of the motion before us please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Opposed said "no."

THE DELEGATES: (No response)

MR. HANNAH: And this element, this Article IV is approved.

MR. GOURD: Mr. Chairman, I would request that as we read through all the following sections, that the delegates assist every time we see the word "department," we analyze that to see if it should be replaced with the word "branch" or "branches" so that we remain consistent.

MR. HANNAH: Thank you very much. Tina, you are recognized.

MS. JORDAN: Just as a point of order, on this next area, can we go section by section?

MR. HANNAH: Yes, ma'am. If that would please the delegates. And the Chair would look for a nod at that time. And he sees several. Mr. Keen, you are recognized.

MR. KEEN, JR.: Mr. Chairman, Delegate Ralph Keen, Jr. We are ready to proceed with Article V, Legislative branch. If it would please the Commission, I would like to defer our presentation of our proposal and defer that to the agenda item of the proposal by Delegate John Keen.

And this is my reasoning for that. My understanding, that his proposal, along with that of Mr. Cornsilk and Ms. Foster, that they relate to a completely separate form of a legislative branch. And I feel like the delegates should have the opportunity to address that alternative before we spend considerable time debating our present form. And to me it just makes sense that we would entertain their proposal first.

MR. HANNAH: Chair hearing no opposition, we'll accept the substitution. And, Mr. Keen, you're recognized.

MR. JOHN KEEN: Thank you, Mr. Chairman. John Keen, delegate. Thank you. I'd like to thank you in advance for your patience while I'm addressing you, as I am not accustomed to addressing such a large and distinguished audience.

As you see before you, I've written a revised legislative Article V, and I'm also sure you can see the main difference clearly.

I am proposing to you, the delegates, a bicameral legislature. This is what I believe and what I'm sure quite a few of you believe is in the best interest of the Cherokee people.

In our Constitution of 1839 we had a bicameral legislature. And from what I understand, it was a very well liked and well functioning form of government for our people. Given our recent history, I strongly believe we need this form of legislature.

As you go through this motion, I'm sure you will see that it's not so different from the Commission's proposed article in the

respect that the legislative branch will have many of the same powers. The differences are, for the most part, structural.

First of all, the name Tribal Council is still used, but only as one of two houses. The other house is called a Senate. The name as a whole has been changed to the Congress of the Cherokee Nation.

I looked up the term "Council" in Black's Law Dictionary, and it likened the term to a municipality. I believe we're much more sovereign than a simple state chart of municipality, and decided to use a name more befitting of a nation as large and sovereign as the Cherokee Nation.

Congress is listed as an assembly of legislative delegates, much more fitting for the Cherokee Nation.

Secondly, the size has been changed from fifteen to thirty-three, although that is not much different than the number proposed by the Commission of twenty-four.

I would feel more comfortable with the decisions of my people being made by the majority or two-thirds of thirty-three people than a simple majority of fifteen or twenty-four.

In the recent past our tribe has effectively been controlled by nine people: The Principal Chief and eight of the Councilors in our current legislature.

We have also seen instances of just the opposite, where six people can prevent a quorum and effectively stop the Cherokee Nation from doing business.

I believe a bicameral is a solution to both of these problems. In Section 5 of my motion, it allows each house to compel the attendance of absent members. And likewise, it would be very hard under a divided legislature of thirty-three members to be influenced by one group of people.

We have all seen the result of this. And I feel safe in saying that I am probably joined by a majority of our people in being unhappy with this.

This reminds me of Madison's 51st Federalist Paper that I have included in the pack in front of you. He says, In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches and to render them by different modes of election and different principles of action as little connected with each other as the nature of the common functions and a common dependence only society will admit.

I am not so eloquent as Mr. Madison, so I'll let him say it for me. I staunchly believe this type of legislature is needed in the more dire way. I submit to you that this is the right course of action for our Nation to take.

I also submit to you that although the Commission's recommended article is a step in the right direction, in a few years we may be back in the same situation as we are now. We should take the proper steps now and not look back with wishful hindsight, no matter how bold this drastic change may seem now.

I know one of the most common questions is to be, how are we going to implement this change. I've written in this motion that it's to be implemented in the first election following the adoption of this motion -- this article, I'm sorry.

I believe that a two-year period following elections in May will be sufficient time to allow the Election Commission and other relevant departments to get ready. We may also need to write in a date for elections in two years to implement that, if the case necessitates that.

Getting back to some of the other differences, I have changed the removal process for members of the Executive and Judicial branches. They are to be removed by an impeachment and trial process.

I have also put a paragraph in Section 8 that I feel is extremely important to the continued sovereignty of our Nation. This paragraph requires the Congress to give its approval by two-thirds of its members for the sovereign immunity of our Nation to be waived.

In the past, this has been done by the Principal Chief merely signing away our sovereignty at will. With the recent decision of the United States Supreme Court involving the Kiowas' sovereignty, the Courts have said that we have the right to waive our sovereign status, but only by expressly doing so.

I believe the way for the Cherokee Nation to expressly waive such an important part of our standing is by allowing our Congress, and only our Congress, to make such a monumental decision that could possibly have long-term negative effects on our Nation as a whole.

I'd like to get back to some of the number differences I talked about in the beginning of my address.

As it currently stands, our Council members represent about twelve thousand people each on average. In my motion, we would change the number of people represented by each Council member and Senator to about fifty-five hundred.

With the growth of our Nation and the amount of money that is now handled by our legislature, approximately a hundred and fifty million dollars a year, I believe this is a much more feasible number. Not to mention the added safeguards we will enjoy with the divided legislature.

I hope you will give my motion serious consideration, as I strongly believe this is the most appropriate type of legislature for our Nation at this time.

I move for the adoption of my article. Thank you.

MR. CORNSILK: Mr. Chairman, I second it.

MR. HANNAH: There is a motion before us as presented by documentation for Article V, Sections 1, 2, 3, 4, 5, 6, 7, 8 and 9. And there is a second, and the Chair recognizes Mr. Cornsilk.

MR. CORNSILK: Mr. Chairman, David Cornsilk, delegate. I would offer a friendly amendment to Mr. Keen's proposed

amendment to the Constitution.

In Section Number 2 it currently reads, The Council shall be composed of twenty-four members who are members by blood of the Cherokee Nation, or shall be elected in the first election following the adoption of this article, et cetera, et cetera.

I would offer this amendment: The Council shall be composed of one representative for every five thousand, five hundred Cherokee citizens residing in the district for purposes of reapportionment. Nonresident citizens shall select a district and be counted as if residents.

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

MR. JOHN KEEN: Can you just recap that for me?

MR. CORNSILK: Sure. What I'm doing here is simply changing from the arbitrary number of twenty-four persons selected, to making it a House of Representatives based on the number of persons residing or selecting that district.

And so what I've said is:

"The Council shall be composed of one representative for every five thousand, five hundred Cherokee citizens residing in the district for the purposes of reapportionment. Nonresident citizens shall select a district and be counted as if residents."

MR. JOHN KEEN: I would accept that amendment.

MR. HANNAH: The amendment for the inclusive language as presented by Mr. Cornsilk has been accepted. Gentle lady from Houston.

MS. SCOTT: Deborah Scott. I would like to amend the friendly amendment to read that nonresident registered Cherokees will have their own district for which they will be able to elect their own representative.

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

MR. JOHN KEEN: I'm not prepared to accept that as a friendly amendment right now.

MR. CORNSILK: That was an amendment to my amendment.

MR. HANNAH: He has accepted your amendment, so it will, in effect, be his choice.

MR. CORNSILK: Well, I'm opposed to it.

MR. HANNAH: Thank you, Mr. Cornsilk. Dr. Hook, you are recognized.

MR. HOOK: I would like to ask for a point of clarification from Mr. Keen. Could you describe or articulate your vision of the distinction between the two Houses and their roles?

MR. JOHN KEEN: Well, I tried to enumerate the powers the best I could. The distinction between them will be basically in numbers, per se that there will be one Senator from each established legislative district that -- the Council will be apportioned based on population.

The way I have it written in there is, shall be apportioned as equally as may be, I believe is how I have that written.

But the Senate is set out at one member per established legislative district. So that should bring a more even stability, because in the Council there will be more representatives for some districts, less for others, so thereby creating an uneven number of votes on certain issues, which should even out in the Senate.

MR. BILL BAKER: Point of information.

MR. HANNAH: Sir.

MR. BILL BAKER: If we do fifty-five hundred for each representative, does that mean if this Constitution lasts a hundred years, that we will eventually have three hundred representatives?

MR. HANNAH: Mr. Cornsilk may need to assist Mr. Keen in that definition. You are recognized.

MR. CORNSILK: The constitutions that I've studied over the course of the last four or five years that have increasing numbers of representation on the Tribal Council or on their legislative body have mechanisms in place, as does this Constitution, to limit the number of persons who can be on the Council, simply by changing that number, either up or down.

If you want to increase the number of representatives, you can decrease the number of people. If you want to decrease it, then you increase the number of people.

And the Creek Nation went through that just recently. They reapportioned their nation and also lowered the number of representatives. They felt like their body had become too cumbersome, because the number kept growing and growing, and so they simply changed it. And we can do that as well.

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

MS. SILVERSMITH: Silversmith, Salina, Molly. A friendly amendment. On the Section 2 where it says the term of four years.

MR. JOHN KEEN: I'm sorry, Section 2? Yes, I see.

MS. SILVERSMITH: The term of four years. And until his successor is duly elected and installed. Would you take a friendly amendment of also being such as they can only run two consecutive terms, cannot run a third term?

MR. JOHN KEEN: Would you be placing that on the Senate also?

MS. SILVERSMITH: On all of your branches. Let there be a -- they can only be elected two terms, off a term, and can return and run again. That they cannot stay in office indefinitely.

MR. JOHN KEEN: So you're saying that they're elected for two terms, will not be allowed to run for a third, but can return after sitting out one complete turn and run for two more again?

MS. SILVERSMITH: Yes.

MR. JOHN KEEN: And that would be applied to

both the House and the Senate, or the Council and the Senate.

MS. SILVERSMITH: Yes.

MR. JOHN KEEN: I will accept that as a friendly amendment.

MS. SILVERSMITH: Thank you very much.

MS. MEREDITH: Mr. Chairman. If this is a substitute for a regular proposal, should we not be working with this one the way we have everything else, and taking it section by section rather than jumping in with amendments everywhere?

MR. HANNAH: You raise I believe to be an appropriate point. And the Chair apologizes for being distracted for a moment on the last friendly amendment. I was under the impression that that was being taken up on Section 1, but in fact was under Section 2. Is that correct, Ms. Silversmith, Mr. Keen?

MR. JOHN KEEN: Yes, you are correct.

MS. MASTERS: Point of clarification.

MR. HANNAH: Yes, ma'am.

MS. MASTERS: I would like to ask Mr. John Keen, accepting Mr. Cornsilk's friendly amendment of one representative for each five thousand, five hundred citizens residing in the district, is this an attempt to eliminate absentee ballots, absentee voting? Residing in the district is what the amendment by Mr. Cornsilk said.

MR. JOHN KEEN: I understood --

MR. CORNSILK: May I read my amendment again? I believe she has that incorrect.

MR. HANNAH: Mr. Cornsilk, if you could give us a way of clarification.

"The Council shall be composed of one representative for every five thousand, five hundred Cherokee citizens residing in the district for purposes of reapportionment, nonresident citizens shall select a district and be counted as if residents."

Is that correct, Mr. Cornsilk?

MR. CORNSILK: That is correct.

MR. McCREARY: Point of information, Mr.

Chairman.

MR. HANNAH: Yes, sir.

MR. McCREARY: If we consider this by section, this entire article, if Section 1 falls, then the rest falls as well. Would it be more logical to look at the entire article, since it's manifesting such a major change?

MR. HANNAH: You raise a valid point, sir, and what we are hinging on here is a discussion of how to look at this proposal. Now, folks, I'm going to take just a moment, okay, Chair's privilege here, take just a moment.

We have delegates, such as Mr. Keen, that have brought forward rather lengthy articles for us to take a look at. And, as you know, we've been making some good steam here this morning, but it's been through more or less a presupposed process that we agreed to last evening and reiterated this morning.

And we're now down to, once again, having a small aberration to that process. So let's be careful here as we move through and give dignity to the kind gentleman from Iowa.

And the Chair recognizes Tina.

MS. JORDAN: Did you recognize Delegate Jordan?

MR. HANNAH: Yes, ma'am.

MS. JORDAN: Did we not just a few minutes ago vote to take this Article 5 section by section? I would ask then that we consider only Section 1 of the proposal, which I think, if we get past that, then we can look at the rest of it.

And I think maybe what we're wondering over here in this area is, do we want a two-body process. And I think we can answer it with Section 1.

MR. HANNAH: At this point, the Vice-Chair has pointed out to me, and I will stand to be corrected, that we have not taken a vote to consider it by section. There has been a great side bar with that regard.

MS. JORDAN: I would make the motion then again that we consider this -- I believe it's -- is it Number V, that we consider it section by section, taking Section 1 first.

MR. HANNAH: Motion on the floor to consider Article V section by section. Is there a second?

DELEGATE: Second.

MR. HANNAH: And those in favor signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And the Chair declares that we are taking it by section. And so, with that, we are back to Article V, as presented what will be known as Mr. Keen's proposal.

Section 1, The legislative authority herein granted shall be vested in the Congress of the Cherokee Nation of Oklahoma, which shall consist of a Council and a Senate.

MS. HAMMONS: Point of clarification.

MR. HANNAH: Yes, ma'am.

MS. HAMMONS: Given the fact that we revised the title first of Cherokee Nation, would you consider eliminating "of Oklahoma"?

MR. JOHN KEEN: Accepted.

MR. HEMBREE: Point of information, Mr. Chairman.

MR. HANNAH: Mr. Hembree.

MR. HEMBREE: I make this as a suggestion to the Chair and Committee. What I believe what we're here looking at is basically the difference between an apple and an orange. A unicameral body of government or bicameral body of government.

Maybe we should have an initial debate on which government system we want. We debate that, whether bicameral is better or unicameral is better, and then, based on that vote, we go

section by section, dissecting whoever's body is better.

MR. HANNAH: Mr. Hembree raises a point that is, in fact, a primary point of departure for the remainder of our deliberations because, if in fact, we are going to accept the concept that it is fair and right for us to deliberate on a bicameral structure of legislation, then we should be about by section and -- in looking through this proposal.

Young lady, what have you just put up here? This can be done by what?

MS. LANGLEY: You can accomplish the same thing, in my opinion, by when you debate his motion, the ones who speak for are for what he says; the cons will speak for either a single thing or something like that, and you can just do it pro and con and speak to that and slide through.

MR. HEMBREE: My issue is this, is that Mr. Keen has brought to us a very detailed proposal that each of those -- that we've already started to discuss, the specifics of those sections.

I would make a motion to the Chair to call on debate on whether we're going to have a bicameral system of government or a unicameral system of government, unlimited debate. Let's decide that question, whether we want an apple or an orange, and then go on with it from there.

MR. WHEELER: Point of information, Mr. Chair.

MR. HANNAH: I will take your point, sir.

MR. WHEELER: Delegate George Wheeler. I think that this can be accomplished by debating Section 1. We're now in Section 1. If we utilize this debate for Section 1, we can determine whether or not we want a unicameral or a bicameral legislature. That would, in effect, solve that problem.

MR. HANNAH: Mr. Hembree and Mr. Baker.

MR. DONN BAKER: Point of information. Can we hear from the Commission, who obviously talked to all the people and did not recommend this? Before we really get started on the debate, I would like to here from the Commission as to why they selected the way they selected, so that we can have both sides of this deal before we really start the debate.

MR. HANNAH: Would that be the pleasure of the delegates? And the Chair would ask for a nod. And seeing a nod, I will begin the discussion, and my fellow Commissioners may add to.

We, in fact, heard on a number of occasions that we should, in fact, reconsider a bicameral House as was outlined in the 1839 Constitution. We found that most of those individuals that were discussing, though, simply concluded at that suggestion.

As we will know, most historians here in the room, we, in fact, had that two-structure of government with a National Council and with a Senate.

The debate among the Commission was that for us to re-embrace a bicameral House would require an absolute dismemberment of the powers of the Cherokee Nation to redistribute among the two

Houses. That we simply would not be able to move toward one article in the Constitution and supplant it with a bicameral House. That it would, in fact, have far and long-reaching implications on all other sections of the Constitution.

There were no suggestions that I recall -- and I know that's a rather definite phrase -- but there were no suggestions that I recall in the public hearings of how to carry out the distribution or allocation of powers to a bicameral House.

And in, once again, many hours of debate, the Commission was stymied with regard to a way to address that particular issue.

We felt that the question was being raised from a standpoint of reputation. And, folks, that's what we are about by looking at this particular section. And that if the question of representation, in simplistic form, was that at the time of the writing of the 1975 Constitution we were a nation of peoples somewhere around forty thousand members. And if we are today two hundred thousand, then the question of representation perhaps should be one that would be best answered with expansion of representation.

We examined the issue of bicameral representation and did not embrace such because of the complexities that would follow the dismemberment of powers that are already existing in our current Constitution.

Mr. Keen.

MR. JOHN KEEN: Point of order. The Chair is arguing the Commission's proposal.

MR. HANNAH: The Chair is not arguing the Commission's proposal. It is simply addressing the question from a point of information. I speak as a Commissioner at that point, not as a Chair.

Mr. Keen, you're recognized.

MR. KEEN, JR.: Mr. Chairman, I would add to your comments that we did undertake this and found a certain amount of merit to it, and there were numerous people, as Mr. Hannah has already stated, that raised this concept, but none could really lay out a concrete method to implement it and to give us a clear distribution of the power structure between the two Houses.

And Mr. Keen is the first one that has really taken the time to undergo this, to really attempt it, with the exception of one other delegate, so I stand corrected. There are two delegates here tonight that have taken this approach.

But the concept still remains that if you want to address the problem of inadequate representation, the problem of either misuse or non-use of appropriate powers, and if you want to address other problems that we've seen with a very small unicameral legislature, then switching or upgrading to a bicameral would, in fact, be a very efficient way to do that.

It would take some thought to properly distribute the rights, responsibilities and authorities of the two Houses and how they're going to balance their powers. It will take some thought.

But ultimately, my opinion on the Commission -- this is

my opinion personally -- would be that it would make for a better form of government. In fact, forty-nine of the fifty states have a bicameral system of government in their legislature. So those are my comments.

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

MR. HANNAH: Point of information requested by Mr. Cornsilk.

MR. CORNSILK: For the sake of other delegates, I've studied the situation the Creeks are in and have been in for the last several years. The Creeks have a unicameral government that they expanded to thirty-three representatives, and they find themselves in the very same situation that the Cherokee Nation does on many issues.

They have political cliques that divide their government, they find themselves stonewalled oftentimes, and they themselves have discussed the potential benefits of a bicameral government, bicameral legislature.

And I think that simply by expanding the Council, we're not solving the problem that we have. The problem that we have is that a unicameral legislature divides itself into natural or perhaps even unnatural divisions; and a bicameral legislature, I think, would solve that for us.

MR. HANNAH: Thank you, Mr. Cornsilk. You are recognized sir.

MR. DOWNING: Carl Downing. I probably am at a loss here because I keep hearing references to these difficulties in changing. Could you clarify that in some way through anecdote or examples? More than one.

MR. HANNAH: I understand his question, and I would tell you that -- and once again, I will speak not as a Chair, not in argument for or against, but simply as a point of clarification of the discussions that took place among the Commission. Do we all understand that?

I would yield the microphone at any time to any Commissioner. Hint, hint. I started this.

MR. JOHN KEEN: Mr. Chair.

MR. HANNAH: One moment, sir. I don't know, Mr. Keen, you said that with such energy. I have a premonition you're about to say something very important and you are recognized.

MR. JOHN KEEN: Maybe I don't want to say it now.

MR. HANNAH: The old tactic of disarming the delegate.

MR. JOHN KEEN: Could you, with respect to the question that the Honorable Mr. Baker, Donn Baker said, what percentage of people posed the question to you, as Commissioners, for the bicameral?

MR. HANNAH: We are unprepared to give you a percentage. It could, in fact, be researched. We could look

through the testimony of voluminous pages they would be. And I would now call on the collective memories of my fellow Commissioners to see if they are willing to hazard a guess as to the percentage of those who spoke with regard to support for bicameral legislative.

MS. BIRMINGHAM: Mr. Chairman.

MR. HANNAH: Thank you, ma'am. I will recognize you in just a moment. At this moment I'm posing a question for reference of my fellow Commissioners, with their remembrance.

MR. KEEN, JR.: It's a very difficult question to answer without reviewing notes and testimony. But I know Delegate Owen Scott has proposed a bicameral and he's done so from the very beginning of this Commission's work.

We've also heard similar suggestions from certain other speakers at these public hearings. But the exact number of which I cannot put a finger on right now.

I would say -- of course, I proposed a bicameral whenever I gave my testimony as a citizen. So suffice to say, at least five or six, and I may be off, my fellow Commissioners may disagree with that, but that's the best of my recollection.

MR. HANNAH: George or Luella, do you have anything to --

MS. COON: I believe just like Ralph, Jr., because I think he's the one that brought it up too at one of our meetings.

MR. HANNAH: I know I shall not do this adequately, but to answer your question, sir, before we go on to hear Dr. Hook and the good lady that has waited so patiently -- and thank you so much.

Without giving laborious examples, it would be simply, if we were to read through the existing Constitution and to see those powers that are vested in the current Council that we have, then the question would come from bicameral government, what would be the disposition of those powers.

It certainly would move from a single House to two and, therefore, the powers that are identified in the existing Constitution would need to be redistributed. And that, in fact, was a debate that --

MR. JOHN KEEN: I could answer that question if it were opposed to me.

MR. HANNAH: And what we're going to do at this time though is hear from good Dr. Hook.

MR. HOOK: I yield to the kind lady.

MR. HANNAH: You yield to the kind lady. Thank you, ma'am.

MS. BIRMINGHAM: Delegate Birmingham. My question would be, given the present stipend that the current Councilors receive, how are we going to pay or afford -- and I see that sigh you're giving, Jay -- this bicameral group.

And, secondly, I think this is one that we need to research very carefully before we launch into say, yes, let's have a

bicameral Congress and Senate.

MR. HANNAH: Very well. Thank you for your comments. Dr. Hook.

MR. HOOK: Was that a question posed to me?

MR. HANNAH: No, sir. I do not believe there was a question posed. But then again, there was. I simply took it as a rhetorical question though. If it is a question of fact and, Mr. Keen, you have an answer for how we would, in fact, finance the expansion. Mr. Hook is recognized, seeing no other voices here.

MR. HOOK: I would like to ask Mr. Cornsilk or some other historian, as a historian myself, I am very interested in precedent. And since we have a history of a bicameral legislature in the past, how it functioned, the division of powers; and if there's a model there that we could turn to, since we are turning and looking at other areas in the past for precedent, if there's something useful there we could look to.

MR. HANNAH: Mr. Cornsilk, could you give us a concise review of historic powers prior to 1970?

MR. CORNSILK: Mr. Chairman, Delegate Cornsilk. I would be happy to try to answer that, but only in terms of when the Cherokee Nation created its Constitution in 1827 and 1839, that it did model its government after the state of Georgia and the federal model.

And even though we heard earlier that those models originally came from Indian origins, the information that's contained in the proposal by Mr. Keen spells out the distribution of powers, it separates those powers between those two Houses. And so I don't think that a model that worked in 1827 would be something that we necessarily want to move forward with. Only that we did have a bicameral government that we sought as a better form of government at that time, with less membership, and that it would be a better working model today.

MR. KEEN, SR.: Mr. Chairman.

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

MR. KEEN, SR.: Ralph Keen, Sr., delegate. You know, for all of my lifetime and for a long time before that, this Nation, this tribe of Indians had been known as a leader. We've consistently set the pace for not only other tribes, but for the United States.

And to sit here and hear this discussion that we're not smart enough to figure out how to run a bicameral legislature, when every other state -- when every state in this union, with the exception of one, has one. It's just mind boggling to me.

I, for one, think we're smart enough to do that. All we have to do is look at our federal system. The way it's outlined, it broadly declares what the powers of the two Houses will be.

Let's get real. We're leaders here. We have intelligence. We can figure out what the duties are.

There's a second element to it. That's the element of God. Our budget -- now, listen to me. One hundred and fifty

million dollars a year. Now, that's more than I can carry around in my pocket. But that's what we spend every year.

Do you know how much we spend on government? I don't know for sure. But the most we've ever spent on a judicial branch is four hundred thousand dollars. Now, if we're going to spend a hundred and fifty million dollars a year, we certainly ought to be able to afford good government. Thank you.

MR. HANNAH: Thank you for your remarks. Mr. Hathaway, you are recognized.

MR. HATHAWAY: Mr. Chairman, I have spent the last twenty-five years working with the bicameral legislature we refer to as the Congress of the United States. I don't really have -- my dad said, I don't have a dog in this hunt of whether we should have one for the Cherokee Nation or not.

I think historically, going back as far as we can is a good thing. I think having more people that represent the views of the people are a good thing. I do not think it follows necessarily or logically that having either more representatives or having two separate bodies to review legislation necessarily makes matters move better or reach consensus.

It gives you two -- in Washington, it gives you two places to stop something you don't want. If you want to get something done, you have to pass two different hurdles of information. You have two sets of hearings.

I'm sure -- we can afford to spend what we want, but we do have to recognize that there is a resource obligation for running a separate House of Representatives and a separate Senate in the United States to operate effectively separate staffs. And it's something that the factor considered.

It doesn't follow logically, for somebody who has practiced in that for quite some time, that you necessarily solve problems of not being able to get something done or work together.

You could have just as easily twice the problems as you have now, as opposed to half of them. I think we're looking to solutions to make things work better for the tribe and to get the business of the tribe done. The form that we take, whether it's bicameral or whether it's -- most of the governments of the world have a single parliament, and they have all the factional problems that we've got with one House or with two Houses of government.

So if it's something that we want to do for reasons of increasing representation or so forth, that's fine. But it doesn't -- don't delude yourselves that having two branches of legislature to work with, just because you have two instead of one, is going to solve anybody's problems of getting groups together to support or oppose a particular policy to be advanced. And it may complicate them.

There may be something that the popular will through the House of Representatives has done, that the Senate, because they have, you know, what may be different constituencies, will not -- simply will not pass.

So I just needed, as a point of information, it isn't intuitively obvious that one system or another is less susceptible to deadlocks or that. I think the areas that we haven't addressed yet of how you actually do this and how accountable people are in all branches to the will of the people, is really what makes a difference on whether something moves forward or not.

I'm not opposed to or necessarily in favor of one House versus two Houses. But it's too simple to say that one or the other is going to answer a problem of moving the business of the people forward. It just -- it's a function more of who's in it and what their procedures are.

And it will be a transition that will be expensive in terms of time and resources, but that's our decision, to decide what we want to do. But it's not something that is a quick and easy answer.

MR. HANNAH: Thank you, Mr. Hathaway.

MR. MULLON: Mr. Chairman.

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

MR. MULLON: I think Mr. Smith has been standing up a little bit longer than I have.

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

MR. SCOTT: Thank you. Being one of the people that had proposed a bicameral legislature, I have given some thought to this. And we're talking about the distribution of powers. One of the great lacks I see of our tribe and most tribes are, giving a voice to traditional people, people that speak the language and consider the old traditions.

And my idea of having the Senate consist of maybe Cherokee-speaking people in there, keeping our records in Cherokee, was specifically to give voice to this aspect of our heritage that has been neglected, I think, from the time we even started writing Constitutions.

MR. HANNAH: Thank you, sir. The good lady is recognized.

MS. BIRMINGHAM: I didn't --

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

MR. SMITH: Thank you. Our concern has been about the distribution of powers and how to fund that. Well, the easy way to the question of that amount of stipends and such, is to say everybody is going to be a volunteer. So the money is not the real issue.

And I think we're looking at the top end, down, which may be an error. Instead of looking at how we're going to distribute the powers up here, we need to evaluate what the purpose of the government is.

And we've talked about increasing representation, which is a valid concern, but perhaps what we're really asking for is how do we develop the quality of representation, because the real challenge for us for the next fifty or hundred years is, how do we

again let our population feel that they own our government, that they're a part of it, they have equal access and get information back.

So the question is, how do we increase the quality of representation, not necessarily the quantity of representation.

So those are the concerns, and we really need to look at some models, and I'm anxious to hear what David Mullon has to say because he's been with the Cherokee Nation, he's been with the Creek Nation.

But with the bicameral legislation, it's not progress just to rubber stamp the federal model, just to rubber stamp the Georgia model, just to go back a hundred years and rubber stamp our Cherokee model.

We need to evaluate what we need now and anticipate how we're going to grow, technologically, population-wise, geographically, and see where we're going to grow into so we'll have a government that will suit us not only yesterday, but today and tomorrow.

With a bicameral House, there is some stability if you have a classic Senate because they have an over view, a world view, a national view, and adds some stability.

Its attraction to me is that the lower House has often been with the House of Representatives, one that's more locally based. And I see that it may be an advantage to have a bicameral House if your lower House is elected by communities, that each community of a certain size gets to send a representative, like the old community representative system.

Because in that system, Bell, Greasy, Line Switch, they had a voice in the tribal government and they were accountable locally. That has some attraction to me.

And then with a Senate, it can add some stability so the government does not fall on colloquial or local issues that consumes it. There's a balance there. So I submit those for consideration at this time.

MR. HANNAH: Thank you, Mr. Smith. Chair recognizes the good lady over here. Please state for us, if you are speaking in favor of or against the motion that we have before us.

MS. BIRMINGHAM: The motion being?

MR. HANNAH: Being the adoptance of Article V, Section 1. That the legislative authority herein granted shall be vested in a Congress of the Cherokee Nation which shall consist of a Council and a Senate.

MS. BIRMINGHAM: Delegate Birmingham rises in opposition to Section 1 as proposed. And I resent the indication that we aren't smart enough to run a bicameral government. I think we are, but the fact this remains that we do not have a hundred and fifty-eight million ready for expenditure upon the bicameral government. The hundred and fifty-eight million has to be delegated to many, many, many departments, and many, many, many people depend on that money. Thank you.

MR. HANNAH: Thank you, good lady, and the Chair will assure you that no personal slur was made. If Mr. Keen would like to correct me, I'm sure he would jump up and say that. But I think no personal slur was made there whatsoever. Starr-Scott.

MS. STARR-SCOTT: Starr-Scott, delegate. I speak with caution. I am neither for or against it at this point. I'm still open to listening. But we have a Constitution that has served us very well for the last twenty-plus years. We've had tremendous growth.

This Constitution and this fifteen member Council has, up to this term, done a good job. I understand we're growing and we may need more representation. But if we're trying to do this, to fix the problem of this past two years, I'm sorry, but it won't fix it.

More people will not eliminate problems. More people will be more problems. It will be harder to reach a consensus from that number. I think if we really want to think of the people and what is in the best interest of those people, that we would want to look at staffing the present Council we have by opening an office in each district and staffing that and making it a full-time position where people really work eight hours a day. They're not there just to supplement their income for four years, but they're there taking care of the Cherokee people.

It's true, we do have a hundred and fifty million dollar budget. But to put this many more Council members that work part-time, you're looking at close to a million dollars. By the time they travel and go to D.C. and their stipends and everything, it's a lot.

I just feel that there's probably a better way to do it.

I just hope that we're not doing this because of the gridlock we've been in, because I don't think it could solve that. And I don't think there will ever be another time that we will reach this point in our history.

MR. HANNAH: Thank you for your point of caution. Mr. Mullon, you are recognized.

MR. MULLON: Thank you. Delegate Mullon. I stand in very serious opposition to a bicameral government. With due respect to Justice Keen and his son, I feel like the federal models and the state models of bicameral legislatures do not justify us adopting them.

There is no compelling really reason that I've heard today that says we should make ourselves look like the federal government or we should make ourselves look and operate like a state, like the state we live in.

I haven't heard that argument. I've heard them saying that there are those models out there and they seem to be doing well. Why is that good for us? I ask that question, what is good for us, just because the federal government does it that way.

I don't see the answer there. I don't see anything compelling that says we need to duplicate that ourselves.

One of the primary reasons of a bicameral legislature like the one we have in the federal government is to even out power among states of unequal population. It's to resolve differences in regions that might result, differences in power of regions that might result from different sizes of populations.

Is that a problem here? Are we having competition between the districts? Is that what our problem is, that we need to even out the power among our districts?

The issue about stonewalling, I assure you that with two Houses of Congress, you have two places where you can cause stonewalling. But all you need to do is, if you can't get control of one of the Houses, you go try to get control of the other House. You have two shots at stymieing the process.

And the legislative process will be stymied by getting control of just one of the Houses. That's it. You don't have -- you will not get a bill through if you cannot get both Houses of the Congress to move on it.

Finally, the issue of cost. We do have a very large budget at Cherokee Nation. We do have a hundred and fifty million dollars. Most of that hundred and fifty million dollars, as we all know very well, is earmarked money that should be spent to improve services to Cherokee people, and not to be spending it on a bigger government.

To have a bicameral legislature will be a very, very expensive proposition. And I will caution this convention, just because it sounds good or we might want to have a bicameral government because for whatever reason we think that's good, it will cost a lot more.

Do we know how much more? Before we would ever do such a very radical change to our Constitution, wouldn't you want to know what it's going to mean in terms of dollars and how that's going to affect the budget and our ability to deliver services to the Cherokee people?

I want to know that. And I don't think we have that information before us. I think that Representative Scott over there, Delegate Scott, hit the key. And that is, the key is to make our current Council better, to improve our current Council. Not to duplicate it, not to divide it into two Houses.

MR. HANNAH: Mr. Mullan, thank you. Mary Ellen Meredith, you are recognized.

MS. MEREDITH: I would like to speak in momentary opposition.

MR. HANNAH: Momentary opposition. This would be a new declaration for us during the convention.

MS. MEREDITH: I think the idea is intriguing, I think it needs much more study than we are able to give it here. I also think that before we look at changing the Council -- or changing the Council structure, we ought to give the Council a chance.

Up until these last two years, the Council has been a

part-time job. And as I understand it, they are still paid, with expenses, around fourteen thousand dollars a year, which precludes people who need full-time work to support their family from being Councilors.

Of the fifteen people, they have a staff of two people to help them out, and they have no offices. It seems to me that it would be more to the point to pay those fifteen people a living wage, give them each at least a part-time assistant, and give them an office back in their district with a computer that has a modem on it, and a telephone that has an 800 number, and some money to send out mailings and communicate with people, and see if that doesn't help. Thank you.

MR. HANNAH: Thank you. Mr. Robinson, you are recognized.

MR. ROBINSON: Mr. Chairman, I'm going to yield to Mr. Poteete for just a minute.

MR. POTEETE: Just the idea -- some of you I've served, I'm now in my second term, I'm winding it up and I'm not a candidate for reelection.

But I think that it would be very helpful along the lines that Mary Ellen is talking and what Barbara has said. And I'm big on preserving historic distinctions.

But if we would divide the districts so that each Councilor has his own district and a specific constituency that he represents, and he knows who out-of-state he represents, rather than have two people represent one district, we need to divide the lines up so there are distinct districts and communities which are represented. It narrows the number of people down to whom you are responsible.

And I think that, along with some of the suggestions that Mary Ellen made and some of the things that Barbara said. And I thank you for letting me splice that in for your consideration.

MR. HANNAH: Very well. Ricky.

MR. ROBINSON: Ricky Robinson, delegate. I am in opposition to the two Houses of government. For one reason, it would be very expensive. And I'm just probably saying that same thing that everybody else is.

Also, it would hold up action. And as an employee of the Cherokee Nation, I know that this system would slow down many things. In response to Mr. -- Justice Keen's position of a hundred and fifty million dollar budget -- and once again, this has already been mentioned -- we're not really looking at a hundred and fifty million dollar budget.

Like Mr. Mullon said, a large, large majority of that is earmarked monies. And just point in case, in my division, out of forty million dollars, if you eliminate the higher education money that comes from Motor Fuel, there's only like a hundred and sixty thousand dollars that is not specifically earmarked.

And in reality, the Council cannot change what we have been given through grants by the federal government, like they can

certain other monies. And I'm not an expert on their legalities there.

I'm also in opposition of this because I think I have a fairly good proposal that will come up in Section 3 of the revised Constitution, if we ever get there. And I hope that it would maybe satisfy some of the concerns about representation.

And just in five seconds or a little more, essentially it talks about district representatives, at-large representatives, and then a representative for those individuals that live outside the historic boundaries.

So once again, I feel like the two-house system would not be workable. It's expensive and it would delay a lot of needed services for our Cherokee people. Even more than what we've been delayed with the problems in the last two years. Wado.

MR. HEMBREE: Mr. Chairman, the good gentleman has been over there.

MR. MacLEMORE: Frank MacLemore, delegate. I rise to speak in response to what we heard yesterday because I'd like to think that the speakers that spoke yesterday were brought in for a purpose.

One of the experts challenged us to believe. Not only in our Creator, but in ourselves, that we can do things.

He also challenged us to take action and exercise that action in faith that we can do what we believe in.

I wanted to speak in support of, but also to address Mr. Hathaway's comments. Perhaps the reason why the federal government system doesn't work is because they have a two-party system, as does the states. Perhaps that's the reason why they're as difficult. I think what we are proposing in regards to this is that there won't be the two-party system.

Also, if we're going to think about representation, I think this kind of a system would perhaps equalize out the system of where almost sixty percent of our people who live out of the thirteen counties don't have representation.

I'd like for us to really consider this based upon the belief that we can exercise our belief and faith and say that we can and we will. Thank you.

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

MR. HEMBREE: Hembree, delegate from Stilwell. I move the previous question.

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

DELEGATE: Second.

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

THE DELEGATES: Aye.

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

THE DELEGATES: (No response)

MR. HANNAH: Therefore, the question is to come

before this group with regard to approval of the Keen submission of Article V, Legislation Section 1, stating that:

"The legislative authority herein granted shall be vested in a Congress of the Cherokee Nation which shall consist of a Council and a Senate."

Those in favor of the motion before us, please signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And the "noes" have it.

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

MR. HANNAH: Yes, sir.

MR. McDANIEL: How many of these proposals is going to come up before this --

MR. HANNAH: Clairvoyancy was not a requirement of the Chair. But it is a right question for you to ask, sir. And I do not raise with humor to make fun of the kind delegate from Muskogee, but to tell you that we do, in fact, have three proposals; is that correct? One has been withdrawn; therefore, there are two proposals that are, in fact, on the agenda.

MS. MEREDITH: What got withdrawn?

MR. HANNAH: Mr. Cornsilk's proposal as scheduled as, (b), 3(b). It sounds like a bingo call, doesn't it? The 3(b) was withdrawn by Mr. Cornsilk. So there are, in fact, two such motions of length that will be before us, sir.

MR. McDANIEL: All right. This one, the revised Constitution, it will be brought up before the Committee there, for consideration?

MR. HANNAH: And what we have done at this point, you recall that Vice-Chairman Keen approached the microphone after a return from lunch and asked that we stand down from continued discussion on the revised Constitution submitted by the Commission and that we would, in fact, hear the young Mr. Keen's proposal, in fact, that it would be -- and for lack of a better phrase, a watershed decision for us, and moving forward.

Because it would, in fact, if approved, would move us toward discussion of bicameral legislative structure.

MS. MEREDITH: Point of information.

MR. HANNAH: Yes, ma'am.

MS. MEREDITH: Did we not take --

MR. HANNAH: To the microphone, if you can, Mary Ellen, and tell us who you are.

MS. MEREDITH: Mary Ellen Meredith. Did Dr. Gourd not suggest that rather than the language you had used for that whole article, that we not accept Mr. Keen's language as an alternate and a substitution?

And he had talked about the entire article, not just one section, because I think there are many things that have nothing to

do with the unicameral or a bicameral legislature in his recommendation, that I thought were very good and ought to be discussed.

MR. HANNAH: You raise a true issue before the delegation. There is a thought from the Chair that obviously without passage of Section 1 of Article V submitted by Mr. Keen, that it would, in fact, render moot the largest portion of his proposal. And yet you raise to clarify that there are sections that have merit. Ralph Keen.

MR. KEEN, JR.: Mr. Chair.

MR. HANNAH: Yes, you are recognized.

MR. KEEN, JR.: His proposal was set forth as an independent-made motion to amend the 1975 Constitution. And we only considered Section 1. And that was voted on, did not pass.

So there is nothing that would preclude him from raising his issues within the framework of anything else we might consider.

So he could just raise his issues from the floor on things, yes.

MR. HANNAH: Does that clarify for you, Mary Ellen? As we talked last time, we want to make sure we're all clear.

MS. MEREDITH: If that's the way he wants to do it.

MR. HANNAH: It may be the way he has to do it.

MR. JOHN KEEN: I would submit to the Chair that I would have the right to go through each section, but I will yield to the suggestion.

MR. HANNAH: And, Mr. Keen, you are a gentleman and we recognize you as such. Tina, you are recognized.

MS. JORDAN: Delegate Jordan. Am I to understand that Mr. Cornsilk pulled his?

MR. HANNAH: Correct.

MS. JORDAN: Would his be -- is it this one, David?

MR. CORNSILK: No, mine was not even submitted on paper. I just went ahead and cancelled the whole thing.

MS. JORDAN: So we have -- I don't know who authored this one right here.

MR. HANNAH: I can read that from here, and I'll tell you.

MS. JORDAN: It's a thick packet and we picked it up yesterday and I don't know who authored it.

MR. HANNAH: Owen Scott.

MS. JORDAN: Is this being considered?

MR. HANNAH: It is not. It was not recognized with that document, it was not on the agenda, and, therefore, amendments or motions to be made from that document would be done so from general debate on the floor.

MS. JORDAN: Is the other one then Ms. Foster's?

MR. HANNAH: Yes.

MS. JORDAN: I saw it circulating. I do not

have a copy of it and I don't know how many others have a copy of it.

MR. HANNAH: Now, instructions -- that was copied, and copies were secured at the registrar's desk, and delegates were informed to pick up a copy.

MS. JORDAN: So is this the one we're going to discuss?

MR. HANNAH: Tina, thank you. You are bringing up a clear point, and we may well be back to our stated agenda of reviewing the legislative section as presented by the Commission.

MS. JORDAN: I understood Mr. Gourd deferred, or whoever presented it. Mr. Keen.

MR. HANNAH: It was Mr. Keen, and then he, in fact, deferred that section in deference to younger Mr. Keen's presentation.

MS. JORDAN: Was it to John's only or was it to everybody's?

MR. HANNAH: I understood it to be to John's only; is that correct, Mr. Keen?

MR. KEEN, JR.: It was intended to be on behalf of anyone suggesting a bicameral. So I'm not sure what Ms. Foster is presenting.

MR. HANNAH: Let's ask. Julia, where are you?

MR. HEMBREE: Mr. Chairman, I call for orders of the day.

MR. HANNAH: The order of the day is, we are at four o'clock and we are on Article V, Section 1, as presented by the Commission, correct?

MR. GOURD: It hasn't been submitted yet.

MR. HANNAH: Are you simply asking for information or do you wish to move.

MR. KEEN, JR.: Mr. Chairman, Delegate Ralph Keen, Jr., on behalf of the Commission. I move that this body approve the language appearing in Article V, Section 1, of the Legislative article of the proposed revised Constitution.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: The floor is open for debate.

DELEGATE: Question.

MR. HANNAH: Question. We have a motion before us on Article V, Legislative, Section 1, "The legislature shall consist of one legislative body to be called the Council of the Cherokee Nation."

Those in favor please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: The section is approved.

MR. KEEN, JR.: Mr. Chairman.

MR. HANNAH: Mr. Keen is recognized.

MR. KEEN, JR.: I move that this assembly approve the language appearing in Section 2 of Article V of the revised Constitution submitted by the Commission.

MR. HANNAH: Is there a second?

DELEGATE: Second.

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

MR. RUTLEDGE: Point of information.

MR. HANNAH: Sir.

MR. RUTLEDGE: Didn't we just approve to -- after we called the question, do we just vote on the budget and not the Section 1? Maybe I lost myself there.

MR. HANNAH: It's a great possibility that I may have too. For one moment I'll confer with this straight-thinking individual here and I'll get back with you.

General consent on the question. Thank you. I knew there was a description for what I was doing there. It's a good day to be in Cherokee County. Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Section 2, we've made one substantive change over the original language, and that is to create a Speaker of the Council. And that Speaker would be elected from the body of Council itself.

And we built in a provision, in the event of a tie vote, which under the current model, the President casts that vote. And what we have done is to provide that, in the case of a tie vote, the Speaker may either abstain from voting to break the tie or call upon the Deputy Principal Chief to cast a tie breaking vote.

We've also taken this position of Speaker and made that position third in line of succession to serve as acting Principal Chief in the case of removal, death, resignation, or disability of both the Principal Chief and the Deputy Principal Chief, or until the disability be removed or a successor be elected.

So that is the substantive change over the original language.

MR. HANNAH: The floor is open for debate. The speakers rise in opposition or in favor of the motion. And you are recognized, Ms. Birmingham.

MS. BIRMINGHAM: Delegate Birmingham. I rise in opposition and propose an amendment.

MR. HANNAH: And your amendment would be?

MS. BIRMINGHAM: New verbiage. Section 2, the Council membership shall consist of a Speaker and fourteen members who are citizens by blood of the Cherokee Nation. Each Council member shall be elected in a general election for a term of four years and until his or her successor is duly elected and/or installed, unless a longer term is determined at the first regular meeting of the Council comprised of members newly elected in the 1999 general election and all its run-offs.

And Section 3 would address the Speaker, which I will --

MR. CORNSILK: Point of order.

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

MR. CORNSILK: She's getting ahead of herself.

MR. HANNAH: I believe that you are correct, sir. Ma'am, I believe that you are addressing --

MR. GUNTER: She said that Section 3 in her agenda would refer to the Speaker of the House. So she's supplanting us.

MR. HANNAH: Ma'am, is it your proposed amendment then that this entirety would be deleted and that your amendment replace this section?

MS. BIRMINGHAM: Yes.

MR. HANNAH: Is that correct? And the delegates have heard so. Is there a second?

Hearing no second, no action will be taken.

Ms. Starr-Scott.

MS. STARR-SCOTT: Mr. Chairman, Barbara Starr-Scott, delegate. I speak for the motion. I long believe that the Council should have a Speaker from its own body, that it has caused some confusion, or perhaps just to say it would be more effective for the legislature to have the Chair of the Council part of the legislature.

Having the Deputy Chief come from the Executive branch and preside over has caused some confusion in the past, in trying to supervise the Council. And I just think for smoother legislative body, that it would help to have this. So I speak for it.

MR. HANNAH: Mr. Smith, how do you rise?

MR. SMITH: I rise to ask the Commission to explain the rationale and the procedure needed for such a provision.

MR. HANNAH: Mr. Keen, would you?

MR. KEEN, JR.: Be happy to indulge the delegate. There is -- well, there's two real principles here, but the biggest one is the Commission felt, after due deliberation, that having the Deputy Principal Chief as President of the Council created a problem with the separation of powers, you know.

And we do have that requirement in our Constitution, where each individual branch has to be able to function independent of the other and do its job and carry out its constitutional duties.

And we felt, having the President of the Council being the presiding officer over the Council - and we had one other factor we considered too -- we felt like that encroached upon the legislature's ability to act independent of the Executive branch.

That is probably the major consideration. But, of course, this is also tied in with our expansion of the Council to twenty-four members as well. So that was yet another consideration.

If you're going to have a body that large, why not allow it to elect its own leadership.

MR. HANNAH: Delegate Hoskin, you're recognized.

MR. HOSKIN, JR.: Charles Hoskin, Jr., delegate. Mr. Chairman, I rise in support of the proposed Article V, Section 2.

I would like to offer a friendly amendment to make a provision that the Speaker of the Council could appoint a Speaker Pro Tem in cases of absences.

And before I offer that, I would ask Delegate Keen whether he thought the language in his proposal would make allowances for that, rather than put this wording in for a Speaker Pro Tem.

And I'm looking specifically at credentials in decorum and procedure, if the Council might be able to just take care of that through its own rules. But if not, I would offer this amendment because I think that the Speaker may find periods of time where he or she is absent and they may want to appoint someone else, one of the body.

MR. KEEN, JR.: My reading of the language, I feel like it probably would allow it, it would be within the power of the legislature. But I also would not be opposed to such an amendment. I see no problem with that. Now, I would to poll the Commission.

MR. HANNAH: Mr. Underwood, do you have any problems accepting the friendly amendment that's been placed before us?

MR. UNDERWOOD: None at all.

MR. HANNAH: Ms. Coon, do you have a problem with the friendly amendment?

MS. COON: No.

MR. HANNAH: Charlie says "yes."

MR. GOURD: Yes.

MR. HANNAH: And Mr. Hannah says "yes."

MR. KEEN, JR.: So if you want to get together, we'll try to work out some new language for an amendment.

MR. HOSKIN, JR.: That's fine. I have a proposal, if you would like it.

MR. KEEN JR.: Yes, let's hear it.

MR. HOSKIN, JR.: Following the -- I'll just point to the footnote, after Deputy Principal Chief to cast the tie breaking vote, where that sentence ends, I would insert, the Speaker of the Council, comma, in case of his or her absence, may from time to time appoint a Speaker Pro Tem.

And I'm not sure of the spelling on temp, if it's T-E-M-P-R-E or an alternate spelling. I think that might reflect my meaning.

MR. HANNAH: Speaker Pro Tem. Where is my English major?

DELEGATE: Would it be T-E-M-P-O-R-E?

MR. HANNAH: Let's do it one at a time. Give me a "T" -- no. I will take one voice and I'll have that person stand. Who will that be?

MR. RUTLEDGE: P-O-R-E.

MR. HOSKIN, JR.: Mr. Chairman, I would be comfortable with letting the style committee work this out.

MR. HANNAH: Let the record reflect Mr. Hoskin is also a gentleman.

MR. HOSKIN, JR.: And I would urge support for the proposal.

MR. HANNAH: Very well. Mr. Keen.

MR. KEEN, JR.: There has been an interesting question raised regarding this friendly amendment; we may want to consider it.

MR. HANNAH: Consider how friendly it is?

MR. KEEN, JR.: No, that the Commission may want to consider whether or not we want to use a Speaker Pro Tem or simply just create a Deputy Speaker position. And that would be very consistent with the Executive branch and how it operates, and everybody would well understand that role and function.

MR. HANNAH: So we have a friendly amendment for the word pro tem --

MR. KEEN, JR.: I'm not sure if I'm going to accept that amendment just yet.

MR. HANNAH: And we haven't accepted it yet at this point, so your styling here is to -- Mr. Hoskin, wherever you may be.

MR. KEEN, JR.: So we can progress, I'll go ahead and accept the amendment and then let that issue be raised by someone else.

MR. HANNAH: Very well. The kind lady, Ms. Birmingham, is recognized.

MS. BIRMINGHAM: Delegate Birmingham. I am embarrassed. I had the wrong number in front of me awhile ago.

MR. HANNAH: You need not be embarrassed, young lady.

MS. BIRMINGHAM: But I have another friendly amendment, if you would consider my amendment. It also sets up a Speaker of the House. Do you want me to read it in its entirety or get with you later to see if you want to accept it?

MR. KEEN, JR.: I think we should hear it now.

MR. HANNAH: We need to hear it now.

MS. BIRMINGHAM: "At the first regular meeting of the Council comprised of members newly elected in the 1999 general election and all its run-offs, the Council shall elect from its membership a Speaker who shall serve until the year 2005. The newly elected Council shall determine by lots seven of the remaining fourteen who will serve six years until the year 2005. The remaining seven shall serve four years until the year 2003.

"Beginning with the year 2003, seven Council members shall be elected by regular election in their respective districts to serve a term of four years. Beginning with the year 2005, eight Council members shall be elected every four years, seven of out their respective districts and a Speaker At-large.

"'At-large' shall mean that all registered electors of the Cherokee Nation shall be afforded the opportunity to vote.

'Respective districts' shall mean only registered electors of the particular Cherokee Nation district as defined elsewhere in this Constitution shall be afforded the opportunity to vote."

And there is a footnote to this.

"The staggering of elections should assure a minimum of eight of the seventeen elected officials with at least two years of experience and two years of service remaining at the time of a general election.

"The Speaker would have two years of experience and two years left of his or her term if a new Principal Chief and Deputy Chief were to be elected, assuring experience in the Cherokee Nation government, should succession to the highest executive office become necessary."

MR. KEEN, JR.: After reading your proposed friendly amendment, I'm sorry, I cannot accept that. That would greatly upset the structure of the remainder of the article as we propose it. I apologize.

MR. HANNAH: The Chair recognizes Delegate Hembree.

MR. HEMBREE: Yes, Mr. Chairman. Hembree from Greasy, I guess I would say. I rise in favor of the section as presented by the Commission.

And just for a point of clarification, at this point have you accepted as a friendly amendment the appointment of a Speaker Pro Tem in that language?

MR. KEEN, JR.: Yes, we have at this point.

MR. HEMBREE: I'm in favor of Section 2, but I'm not in favor of that portion of it. Let me tell you why.

The reason being that in most legislative bodies the Speaker is elected from its own membership, and also the Speaker Pro Tem is elected from its membership. And I believe that I would be against the Speaker, after being elected, from appointing a Speaker Pro Tem, I believe that should be elected official from the membership of the Council itself.

But other than that, this prevents a bleed-over from the control -- this prevents a bleed-over from the Legislative branch from sitting in, I guess, as a President of the Council.

MR. HANNAH: Mr. Hembree, are you arising then to put an amendment to change the verbiage to elect, or are you simply speaking in opposition to the article that we have before us?

MR. HEMBREE: I would propose to Mr. Keen as a friendly amendment, if he would change that language to have the Speaker Pro Tem elected from the membership of the Council body.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: First, I have a question. The term "pro tem" always to me indicates a temporary position. Are you not just suggesting that we should create an elected -- a second or a vice or a Deputy Speaker?

MR. HEMBREE: In the legislatures that I've been familiar with, the Speaker Pro Tem, like I said, has been elected

from the body and operates in the absence of the Speaker. So, yeah, you're talking about the duties of basically the Deputy Speaker, whatever you want to call it, pro tem, a Deputy Speaker. But I think it's going to carry the same function, de facto.

So I just believe the section would be better suited if the Speaker Pro Tem or Deputy Speaker, whatever the language is, ends up being elected from the membership of the Council itself.

MR. KEEN, JR.: Personally I have no objection to that amendment. I need to poll my fellow Commissioners.

MR. HANNAH: Mr. Underwood.

MR. UNDERWOOD: No objection.

MR. HANNAH: Ms. Coon, do you have an objection to this friendly amendment?

MS. COON: No objection.

MR. HANNAH: And I do not.

MR. KEEN, JR.: Do you have some proposed language?

MR. HEMBREE: No.

MR. HANNAH: Very well. The friendly amendment has been accepted, and help us with the --

MR. HEMBREE: Mr. Chairman.

MR. HANNAH: Yes, sir.

MR. HEMBREE: How about in the first sentence where it says, The Council shall establish its rules for its credentials decorum and procedures and shall elect a Speaker and Speaker Pro Tem from its own membership pep. Or Deputy Speaker, whatever verbiage you want to use.

MR. KEEN, JR.: Let me poll the Commission on this point. Do you have prefer Deputy? Do you have any preference, Jay, on the title?

MR. HANNAH: No.

MR. KEEN, JR.: Ms. Coon, do you have any preference whether we call it a Speaker Pro Tem or a Deputy Speaker?

MS. COON: Pro tem, just like it is up there.

MR. HANNAH: What is your thinking, Ralph?

MR. KEEN, JR.: My thinking is, I think it would probably cause less confusion if we stay with the labels synonymous with the Executive branch and label them a Deputy.

MR. HEMBREE: If we have a Deputy Chief, we probably should have a Deputy Speaker. That would be a good idea.

MR. HANNAH: Ms. Coon, would it be okay if we accept the term "Deputy," because that would be very similar to our term of "Deputy Chief"?

MS. COON: Yes.

MR. HANNAH: Thank you. She is satisfied.

MR. HEMBREE: I'm done. I yield.

MR. CORNSILK: I have a point of information.

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

MR. CORNSILK: Delegate Cornsilk. As an individual who is easily confused by two people called "Deputy,"

because we have a tendency to do that. When I speak to Garland Eagle, I say, hey, Deputy. And when I speak to whoever the Deputy Pro Tem is, am I going to say, hey, Deputy? It strikes me as maybe much better to have the Legislative branch have its own title and the Executive branch have its own title.

MR. KEEN, JR.: At this point, sir, I think the Commission has accepted it as a friendly amendment. So if you want to raise that point as a separate amendment, you're privileged to do that.

MR. HANNAH: Thank you, Mr. Keen. Ms. Stroud, you are recognized.

MS. STROUD: Thank you. I have a question. I'm confused. The Speaker shall normally exercise his or her vote in Council matters, but in case of vote may abstain from voting to break the tie? Or he calls his Principal Deputy Chief in to cast the tie-breaking vote.

If we're doing this to separate the powers, then you want to call the Deputy Chief back in to break the tie. But you created this to separate the powers.

MR. KEEN, JR.: Let me explain that.

MS. STROUD: And if you can break a vote, why would you want to abstain?

MR. HANNAH: Mr. Keen, would you speak to the issue, please? And thank you, Ms. Stroud.

MR. KEEN, JR.: The reason that that language is in there is solely because of the twenty-four member Council that we proposed here. Obviously, with an even number, if you have a tie, then obviously someone has to break.

There are only two methods. One person would abstain from voting, and that could be the Speaker at his election, or if there's an absolute deadlock you would have to bring in another vote.

And similar to the current system, and the packet's analogies to the federal system, where the Vice-President has the ability to come in and break a tie in the Senate. There's where that was borrowed from.

Now, obviously if this body should choose to either not accept our proposal of twenty-four members or go with a separate number that would be odd, then we could look at this language again. But that's the reason the language is in there.

MR. HANNAH: Debate is still in order.

MR. WHEELER: Point of information.

MR. HANNAH: Point of information.

MR. WHEELER: Delegate George Wheeler. Does not a tie vote then defeat the issue? Does not a tie vote then defeat the issue?

MR. HANNAH: Yes.

MR. KEEN, JR.: I can't answer that.

MR. HANNAH: Our Parliamentarian?

MS. LANGLEY: Yes.

MR. HANNAH: Yes, it would.

MR. WHEELER: Thank you.

MR. HANNAH: Floor is still open for debate.

Starr-Scott is recognized.

MS. STARR-SCOTT: This may be a point of information, but if we elect a Speaker and a Deputy and they're both out, then what would we do? Why not appoint -- elect the Speaker and appoint the Deputy, because from time to time you may have both of them out, and at least they can appoint someone else to take that position.

MR. KEEN, JR.: Ms. Scott, I would suggest that that could be a matter that would be taken up by the Council under its rules of procedure and decorum.

MS. STARR-SCOTT: Well, this whole Deputy Speaker could be taken up by the Council, really.

MR. KEEN, JR.: It could be, in theory, you're correct.

MS. STARR-SCOTT: But you're putting "elect" a Speaker and a Deputy.

MR. KEEN, JR.: That's right. So there would be a guaranteed office. There would be a guaranteed Speaker and one fall-back, one safeguard. And then beyond that, it would be up to the Council to make provisions for it.

MR. HANNAH: The Chair recognizes Mr. Mullon.

MR. MULLON: I'm Delegate Mullon. Thank you very much. These may be -- I guess I'll cast these as friendly amendments. I hope they'll be taken that way.

The second sentence, I'm having a little trouble with in your section there where it says, the Speaker shall normally exercise his or her vote in Council matters.

I'm not -- something about the use of the word "normally" there, I'm not really sure what it means. I mean, I think I know, but I'm not really sure.

And "in Council matters," I'm not sure what "Council matters" are. That might be interpreted to mean things that relate only to the Council. And I think you mean you're referring to legislation there as well in that paragraph.

So I would -- just as a point of clarification, I would suggest that language to the effect that the Speaker may exercise his or her vote in all matters before the Council.

MR. KEEN, JR.: I would accept that as a friendly amendment. Commissioners?

MR. HANNAH: George?

MR. UNDERWOOD: Fine.

MR. HANNAH: Luella, do you have a problem with the friendly amendment?

MS. COON: No.

MR. HANNAH: And I do not. Charlie? Thumbs up.

MR. MULLON: One other friendly amendment for clarification, and that would be the point that Ms. Stroud made

where in the clause it says, but in the case of a tie vote may either abstain from voting to break the tie.

I think that it would be easier to understand if it would be to read, in the case of a tie vote, in order to break the tie the Speaker may either abstain from voting -- may abstain from voting.

MR. HANNAH: Mr. Keen.

MR. MULLON: Et cetera.

MR. KEEN, JR.: So you're just inserting the words, "to break the tie"?

MR. MULLON: Right. And then delete the -- "to break the tie," the end of it, and a comma after it.

MR. KEEN, JR.: Mr. Mullon, you're still editing my writing, aren't you.

MR. MULLON: It hasn't changed a bit.

MR. KEEN, JR.: I worked under this man several years ago at Cherokee Nation.

MR. HANNAH: You would think that in this period of time you would have --

MR. KEEN, JR.: I would have learned something.

But, no, I have no objection to that amendment.

MR. HANNAH: Mr. Underwood.

MR. UNDERWOOD: None.

MR. HANNAH: Ms. Coon.

MS. COON: None.

MR. HANNAH: And Mr. Gourd.

MR. GOURD: Ordinary language is, in the case of a Speaker, they can either vote to make a tie or break the tie. And up here we have a situation just in the case of a tie vote. In the case that the Speaker would vote to create a tie, then it would automatically fall to the Deputy Chief to cast the tie-breaking vote.

MR. HANNAH: And your vote on the straw poll for the Commission would be?

MR. GOURD: It looks fine to me, but I think we need to do something about creating or breaking the tie.

MR. HANNAH: I have no objection.

MR. KEEN, JR.: The friendly amendment is accepted.

MR. HANNAH: Yes, it is.

Mr. Mullon, your amendment has been accepted. Do you have further comments with regard to the amendment that you just made?

MR. MULLON: I need to think, if I could just for a minute, about Mr. Gourd's question.

MR. HANNAH: As a matter of fact, with the privilege of the Chair, you have one minute to think. And if all delegates would stand up at this time, in position, not leaving the room. Shake hands with the person next to you, reintroduce yourself, check your wallet.

(recess taken)

MR. HANNAH: By way of schedule, I will tell you that my watch, while it may not be accurate, is close, within twenty-four hours, says that it is twenty-five minutes to the hour of five. Our stated agenda for the day states that we will break for the evening meal at five o'clock and I plan for us to do so.

So if we will take our seats. Ms. Henry, if you will clarify that the doors are ready to be closed or opened, or do we have those in the hallway? Let's take our seats.

Mr. Keen, have you had an opportunity with fellow delegates to think during the past one minute?

MR. KEEN, JR.: Yes, we have. And I think we have another friendly amendment.

MR. HATHAWAY: Mr. Chairman, I have a friendly amendment, if you'll permit me.

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

MR. HATHAWAY: Thank you. The provisions to have the Deputy Principal Chief breaking ties is similar to the U.S. Constitution where the Vice-President of the United States, not being an elected member of the Senate, breaks ties in important cases, because he only shows up if it's important.

If you want to have separation of powers, which I believe we all do, there is no reason to have the provision for the Deputy Principal Chief to cast a vote at all. The legislative decision can be by the Legislative branch.

If there isn't a motion that gets half of the legislative members to support it, if there is a legislation, then why are we moving it forward for judgment by the Executive? From what I know of our history, our ancestors would have been appalled that forty-nine percent would be ignored as opposed to stay around when you've got a consensus.

So the idea that we have to break a tie, and my friends in African tribal governments would say, you folks are crazy. You're going to take forty-nine percent of the population or the legislatures and tell them their idea doesn't merit. Why don't you have even a higher one.

So I see no reason to have a possibility of breaking a tie because we don't know how many Council members are going to have the flu on a given meeting night.

And so my friendly amendment would be to delete the provision for the Deputy Principal Chief to cast a tie-breaking vote.

And what else do we need to do?

And the line above it, because we have already determined that the Speaker is a member of the legislative body and may vote.

MR. HANNAH: We're going to delete --

MR. HATHAWAY: There is no reason to say the Speaker may vote to break a tie. The Speaker may vote like any other member.

MR. KEEN, JR.: It seems to me like we could place a period after the word "Council" where it says, "the Speaker

may exercise his or her" --

MR. HATHAWAY: Correct. Delete the line above as well.

MR. KEEN, JR.: And delete the remainder of the sentence.

MR. HATHAWAY: Any member of the legislature may abstain from voting if they so choose, subject to their re-election, I suppose.

MR. KEEN, JR.: One more word, "voting."

MR. HATHAWAY: One more word, "voting" and "footnote." So that what we will have is a separation of powers. I believe we should show in the record, if we are not going to have a Speaker Pro Tem, chairing the meetings is not necessarily an honor or a privilege, and it is usually passed around to the other fellow victims in the legislature quite rapidly.

I believe it should be clear in the report that comes from this body that it would be expected that it would be the Speaker or an elected Deputy Speaker, but that the presiding officer who was absent would have the authority to appoint someone to chair a meeting or a portion of a meeting.

And as the -- is it the elder Delegate Keen -- or the middle Delegate Keen, I'm sorry -- the middle-aged Delegate Keen had suggested that that would be a proper thing and we need to have that somewhere in the record so there isn't any doubt that the person who chairs the meeting is not one that requires an election. That's another possibility of log jams that's unnecessary.

MR. HANNAH: Thank you, Mr. Hathaway.

MR. KEEN, JR.: Mr. Chairman, I have no objection to that friendly amendment. I would like the Commissioners to be polled.

MR. HANNAH: Mr. Underwood, do you accept the friendly amendment?

MR. UNDERWOOD: Accept it.

MR. HANNAH: Ms. Coon, do you accept?

MS. COON: Yes.

MR. HANNAH: Mr. Gourd.

MR. GOURD: Yes.

MR. HANNAH: And Mr. Hannah says "yes."

Therefore, the friendly amendment is accepted and it is entered into the motion.

MR. HATHAWAY: Mr. Chairman, we should delete "the Speaker shall also," I'm advised by my learned delegate, Mr. Mullon, in the fourth line.

MR. HANNAH: Very well. "The Speaker shall also" will be deleted.

MR. MULLON: Just "also."

MR. HANNAH: Very well. Mr. Keen, you are recognized, of the younger.

MR. JOHN KEEN: Younger Delegate Keen from Iowa. We're essentially creating two Speaker positions, one being a

Deputy, and we haven't spelled out any duties for the Deputy Speaker. I understand it's pretty clear.

But are they going to -- the Deputy Speaker will have no duties unless the Speaker of the Council is not present, or will he have -- will he be sitting as Deputy Speaker in all meetings?

MR. HANNAH: Mr. Keen, the intermediate, do you have the response?

MR. KEEN, JR.: My response would be, that would fall under the purview of the Council to establish the duties of the Deputy Principal.

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

MR. HEMBREE: Mr. Chairman, I move the previous question, the matter on the floor.

MR. HANNAH: Previous question has been moved. Is there a second?

DELEGATE: Second.

MR. HANNAH: Those in favor please signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: (No response)

MR. HANNAH: And before us is the consideration of the motion, that in Section 2:

"The Council shall establish its rules for its credentials, decorum and procedure, and shall elect a Speaker and a Deputy Speaker from its own membership to officiate over Council meetings. The Speaker may exercise his or her vote in all matters before the Council. The Speaker shall be third in line of succession to serve as Acting Principal Chief in case of removal, death, resignation, or disability of both the Principal Chief and the Deputy Principal Chief until the disability be removed or a successor shall be elected."

All those in favor of the motion before us at this time please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: (No response)

MR. HANNAH: And the section is accepted. Mr. Keen, you are recognized.

MR. KEEN, JR.: Mr. Chairman, I move that this assembly approve the language contained in Section 3 of Article V of the revised Constitution as submitted by the Commission.

And that section reads: "The Council shall consist of twenty-four (24) members, who are citizens by blood of the Cherokee Nation. Each Council member shall be elected in the general election for a term of four (4) years and until his or her successor is duly elected and installed.

"The Council shall establish representative districts which shall be within the historical boundaries of the Cherokee Nation of Oklahoma. These districts shall be apportioned to afford

reasonably equal division of tribal citizenship among the districts.

All seats on the Council shall be organized to create a system of staggered terms to fill an alternating number of seats by election every two years.

"To implement this enlarged system with staggered terms, the newly elected Principal Chief shall, within thirty (30) days of assuming the duties of office, appoint nine citizens otherwise qualified to hold elected office on the Council to serve one special term of two years until the year 2001. The newly elected Council of fifteen, at its first regular meeting following these appointments, shall consider confirmation of the nine appointees and determine by lot three of the newly elected Council seats that will serve one special term of two years until the year 2001, at which time twelve Council seats shall be filled by regular election.

"Should any of the appointed seats remain unfilled after ninety (90) days of the newly elected Principal Chief taking office, the seat or seats shall be filled by the unelected Council candidate or candidates receiving the highest number of votes in the 1999 election."

That is my motion, sir. Do you want me to state my comments now or open the floor to debate?

MR. CORNSILK: Point of order.

MR. HANNAH: Point of order.

MR. CORNSILK: May we vote on these two as separate paragraphs? Because I think it will expedite things.

MS. FOSTER: Point of order.

MR. HANNAH: Point of order.

MS. FOSTER: I have a proposal and I'm on the agenda. It's specifically addressing this section. I wonder what the proper placement of my presentation is at this point.

MR. HANNAH: The proper placement of it obviously would be in descent of the agenda, unless Mr. Keen would wish to withdraw his motion or -- help me with verbiage here, Ralph. Earlier, what you did with your brother.

MR. KEEN, JR.: To defer.

MR. HANNAH: Thank you. A little long in the day here for the Chairman here, ladies and gentlemen. We are fourteen minutes before our recess for the evening meal, and I apologize.

MR. KEEN, JR.: Mr. Chairman, I have no problem.

I would defer to our other delegate who does appear on the agenda at this time. And I withdraw my motion.

MR. HANNAH: In that case, hearing no opposition, the Chair declares that Ms. Julia Coates and her proposal that is listed in the agenda be brought before the delegation. Ms. Coates, you are recognized.

MS. FOSTER: I'm also wondering at this time, I'm going to present something which I anticipate is going to open up a substantive kind of debate. And I'm wondering, since we have not had an afternoon break, which was scheduled at three forty-five,

I believe, or was in a footnote for three forty-five, and we are within fifteen minutes of a dinner break, if we might postpone entering into this whole section until after dinner.

MR. HANNAH: The Chair serves at the discretion of the delegates. And what would be the pleasure of the delegation? Seeing a variety of head nods --

MR. GUNTER: Do we need to take a whole hour and a half for dinner? I wind up eating and then killing forty minutes.

MR. HANNAH: And then just hanging around, getting into trouble.

MR. GUNTER: Yes.

MR. HANNAH: I know this is a very unofficial way of doing this, but let's just talk here for a moment. Would that be okay? Just a moment, unless you're getting ready to make a pertinent motion.

MR. RUTLEDGE: I was.

MR. HANNAH: In that case, Mr. Rutledge has been identified.

MR. RUTLEDGE: Delegate Rutledge. This may be or may not, so I'll leave it to the Parliamentarian. May we untable Article II to be considered after Article III or whatever we are on, IV.

MR. HANNAH: No, we have actually -- this piece has now been deferred and the Chair has accepted its deferral. And in our next reconvening after our recess, we will hear -- the Coates proposal will be brought before the delegates.

MR. RUTLEDGE: All I'm asking is, can we untable Article II to be considered after all of this is done or we're finished with this particular article, it comes back in seriatim again.

MR. HANNAH: Are you preparing to make a motion, Mr. Gourd?

MR. GOURD: Yes.

MR. RUTLEDGE: I move that we untable Article II.

MR. HANNAH: There is a motion on the floor to untable Article II. Is there a second?

DELEGATE: Second

MR. HANNAH: And there is a second. And those in favor signify by say "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: (No response)

MR. HANNAH: And the article is untabled and placed before us.

MR. GOURD: Mr. Chairman.

MR. HANNAH: Mr. Gourd.

MR. GOURD: I make a motion that we approve amendments of Article II, Bill of Rights. This was the group that met over lunch; and since that time, has been both in discussion and

out of discussion in writing.

And we have brought forward a number of items that were contained in the 1839 Constitution and clarified those for the present, and it shall read as follows:

"The people of the Cherokee Nation reserve unto themselves and affirm the following rights:

"Section 1. The Judicial of the Cherokee Nation shall be open to every person and entity within the jurisdiction of the Cherokee Nation. Speedy and certain remedy and equal protection shall be afforded under the laws of the Cherokee Nation.

"Section 2. In all criminal proceedings, the accused shall have the right to counsel, of confronting all adverse witnesses, of having compulsory process before obtaining witnesses in favor of the accused, and a speedy public trial by an impartial jury. The accused shall have the privilege against self-incrimination, and the Cherokee Nation shall not twice try or punish an accused for the same offense. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

"Section 3. The right of trial by jury shall remain inviolate and the Cherokee Nation shall not deprive any person of life, liberty or property, without due process of law, nor shall private property be taken for public use without just compensation.

"Section 4. The Council shall make no law prohibiting the free exercise of religion or abridging the freedom of speech or the press or the right of the people to peaceably assemble and to petition the Nation for redress of grievances."

MR. HANNAH: The motion is before us at this time. Is there a second?

DELEGATE: Second.

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

MR. CORNSILK: I would offer a friendly amendment. Delegate Cornsilk. I've noted in Cherokee law that the criminal laws of the Cherokee Nation are not divided into felonies or misdemeanors, and I would offer an amendment to divide those in that fashion.

MR. HANNAH: Mr. Gourd.

MR. GOURD: I would defer to Mr. Smith and others who participated in this round table discussion who --

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

MR. SMITH: In 1991 the Cherokee Nation adopted criminal laws in response to the Greasy ballpark case. And at that time and at this time we're subject to the Indian Rights Act, Civil Rights Act. And it prohibits punishment of more than one year or five thousand dollar fine.

So when the laws of the Cherokee Nation were -- the criminal laws were adopted by the Council, the distinction between a misdemeanor and a felony was eliminated because the misdemeanors basically limited to punishment of one year.

So for consistency -- basically, the Cherokee Nation could not impose punishment which would constitute a felony. We could have a felony -- a crime which was deemed a felony in the state or federal jurisdiction, but we only could give one year and a five thousand dollar fine.

So to eliminate the confusion, all crimes were called offenses or crimes. And the distinction between felonies and misdemeanors was eliminated. That is why our statutes are written the way they are.

There's nothing -- we should not restrict ourselves in the Constitution, in the event someday the Indian Civil rights Act is amended, which will allow us to impose a greater punishment than one year. At that time it would be appropriate for the legislature to redefine what crimes were felonies and misdemeanors.

MR. HANNAH: Thank you, sir.

MR. CORNSILK: May I address that?

MR. HANNAH: Yes, sir, you may.

MR. CORNSILK: My purpose in offering this amendment is not to define the punishment, but to clarify for those persons who may commit crimes and for those of us who may want to know whether or not someone is going to lose their civil rights, according to, you know, there's provisions in the Constitution that says you can't serve as Principal Chief if you've committed a felony.

And I think that a felony within the Cherokee Nation is as important as a felony in the State of Oklahoma or a federal felony. And so I'm not interested really in whether or not we're going to punish someone for a year or ten years, but whether or not if you commit a capital crime in the Cherokee Nation, is that a felony and does that disqualify you as in serving from office or relieve you of your civil rights?

MR. RUTLEDGE: Point of information.

MR. HANNAH: Point of information.

MR. RUTLEDGE: Would you reread what your amendment was?

MR. CORNSILK: I don't really have it written down. But what I am proposing is a friendly amendment to simply state that all of the criminal laws of the Cherokee Nation will be divided into felonies and misdemeanors.

MR. LITTLEJOHN: Point of information. Could that not be done by legislative action?

MR. CORNSILK: It could be, but we've had legislative action for the last twenty years and we haven't seen it done yet.

MR. HANNAH: Mr. Gourd, do you accept the friendly amendment as presented?

MR. GOURD: No.

MR. SMITH: Could I respond, perhaps, to Mr. Cornsilk? If the objective is -- and I think it's admirable, I concur with it, that if we convict a public official of a crime

which in state or federal jurisdiction would be a felony, it should carry the same civil repercussions, that is, disqualification from office.

To accomplish that goal, I would suggest that in the provisions for removal or disqualification, we would add the language there. Say, if the elected official were convicted in tribal court, which would be a felony in state or federal jurisdiction, then he would be disqualified.

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

MR. MULLON: Delegate David Mullan. Actually, for point of clarification, the Indian Civil Rights Act, what it actually prohibits is for an Indian tribe to pass a law that would impose a punishment of greater than one year or a fine in excess of five thousand dollars per offense.

You can designate an offense as a misdemeanor and a felony, if you wish; but you are limited by the Indian Civil Rights Act to that range of punishment, no greater than that.

And I really do think that that's the business that Mr. Cornsilk is thinking of here, really ought to be done in legislation and not in a Constitutional amendment.

There was one -- if I could offer a friendly amendment as well, Mr. Chairman, that is, in that little preamble, that sentence at the head of the --

MR. HANNAH: "The people of the Cherokee Nation reserve unto themselves"?

MR. MULLON: Right. It was pointed out to me that the language "reserve unto themselves" is possibly confusing and may be interpreted to have an affect with these are not mandated on the Nation itself. But somehow they are reserving these rights and they've got to take care of these rights themselves.

And I wonder if the amendment would actually serve us just as well if we were to delete the words "reserve unto themselves and," so that it read, "the people of the Cherokee Nation affirm the following rights." That would be a suggestion.

MR. HANNAH: Mr. Gourd.

MR. GOURD: Yes, I would accept that.

MR. HANNAH: Hearing no opposition, the friendly amendment will stand.

MR. RUTLEDGE: I believe the point of reserving unto themselves was that the people themselves are reserving certain rights to themselves that the government cannot violate. And that where the term comes from. I understand what he's saying. However, if there is a better term to say that, I think that we should use it. I'm not sure I like it saying, "we affirm the following rights."

MR. HANNAH: Mr. Hoskin the younger is recognized at this time, sir.

MR. HOSKIN, JR.: Thank you, Mr. Chairman. I rise in support of the new article. I'd like to stress that enumerating our own Bill of Rights as opposed to just by implication

taking the Indian Civil Rights Act, will allow us to develop our own notions of due process and protection, which I think is important for any sovereign people who are concerned with individual rights.

I do want to ask one point of clarification. That is the sentence on Section 2 that deals with the accused shall have the right to counsel.

My understanding of the Indian Civil Rights Act is that they don't ensure the right to counsel paid for -- if you're indigent, paid for by the tribe.

So my question, I think, as I would read it, would be counsel provided free, but I just want to make sure on the record that we express that that's what we intend, if that is what you intend.

MR. GOURD: I think that was discussed and I think then we would turn to the Cherokee Bar Association for pro bono work. No, I agree. That is a --

MR. HOSKIN: Then I'll yield.

MR. GOURD: That's a very good point. That's one that needs to be addressed.

MS. JORDAN: Mr. Hoskin, did you yield to me?

MR. HANNAH: Yes, Tina.

MS. JORDAN: The comment I would make is we left that to the legislative body to appropriate money, if necessary, to accomplish that task. The Indian Civil Rights Act does only offer counsel at your own expense. We did not go that far.

In the last seven years since we've had the District Court, we've made every effort when a person could not afford counsel and was, in fact, looking at the possibility of some jail time, we did everything we could to provide counsel through our system.

I trust that the legislative body, of which we have, I think, at least six members here in attendance, will continue to provide for that minimal due process.

MR. HANNAH: Thank you. Ms. Birmingham, you are recognized.

MS. BIRMINGHAM: Delegate Birmingham. I have a question and a point of clarification.

MR. HANNAH: Yes, ma'am.

MS. BIRMINGHAM: Under the Preamble or whatever you call that up there, the first --

MR. HANNAH: Introduction of the article, "The people of the Cherokee Nation affirm the following rights."

MS. BIRMINGHAM: The citizens of the Cherokee Nation.

MR. HANNAH: Please speak up, Ms. Birmingham.

MS. BIRMINGHAM: Okay. Do we want to say the citizens of the Cherokee Nation.

MR. HANNAH: Are you making a friendly amendment for that Preamble line to this article to read, "the citizens of the Cherokee Nation"?

MS. BIRMINGHAM: Yes, sir.

MR. RUTLEDGE: Point of information.

MR. HANNAH: Yes, sir.

MR. RUTLEDGE: The reason we chose "the people" is because we are saying the people before we became citizens --

MR. HEMBREE: Out of order. That's not a point of information.

MR. HANNAH: Beg your pardon?

MR. HEMBREE: I said, out of order, that's not a point of information.

MR. HANNAH: Thank you, sir.

MS. BIRMINGHAM: I raise a question. Are we offering this judicial process to every non-Indian, African-American, Hispanic person and entity within the jurisdiction, fourteen-county jurisdictional area of the Cherokee Nation?

MR. HANNAH: Mr. Gourd, is that answering in the affirmative?

MR. GOURD: Yes, sir.

MR. HANNAH: Mr. Smith, you've been patient, sir. You are recognized.

MR. SMITH: I concur with Mr. Gourd, that when our jurisdiction expands, criminal jurisdiction over non-Indians, they will be entitled to this Bill of Rights also.

But I would like to, just as a historical footnote, is the caucus, about sixty percent of this article came from our 1839 Constitution. So it's not new language. It's a reaffirmation of language that we've had for a hundred and sixty years.

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

MR. DONN BAKER: I think we need to leave, where it says "the people" as opposed to "the citizens." Let's take, for example, now, we have people who appear in our courts who are non-citizens. Let's say a white lawyer appears. I think we all agree that that person ought to have due process before he's carted off to jail.

And I think we don't mean to just give these rights to our citizens, but we give them to all the people, that these rights would be affirmed. So I think we need to make sure that we don't just designate citizens are entitled to that.

MR. HANNAH: Thank you, Mr. Baker. Mr. Rutledge.

MR. RUTLEDGE: I was offering a friendly -- I'm moving to offer a friendly amendment in response to several of the people who drafted this. We're suggesting -- we took out the one section, after the Cherokee Nation, we are in the Preamble, we're suggesting you add in "shall have and," so that it reads, "the people of the Cherokee Nation shall have and affirm the following rights." That should clear up both problems that we're discussing.

MR. HANNAH: Mr. Gourd, what say you on the friendly amendment?

MR. RUTLEDGE: I'm sorry, and "do affirm."

MR. HANNAH: "And do affirm." Mr. Gourd, what say you on the friendly amendment?

MR. GOURD: Yes, I think that would help clarify.

MR. HANNAH: Very well. Hearing no objection, it is entered into the line. Mr. Mullon, you stand, sir. Do you wish to be recognized?

MR. MULLON: Thank you. There was a question asked earlier about the application of the -- in Section 2 about the right of an attorney. The right to counsel.

As it stands right now, under the current Indian Civil Rights Act, that would not have any application to non-Indians, because they would not be the target of a prosecution, as the Indian Civil Rights Act works right now.

If that were to change, this is worded in such a way, by using the word "accused" as opposed to "citizen," that if that were to ever change and we could assert jurisdiction over non-Indians, then that would be possible.

Actually, it's not the Indian Civil Rights Act, but it's the Oliphant decision, right now, is really what is holding us back against asserting criminal jurisdiction over non-Indians. But that may change someday.

MR. HANNAH: Mr. Mullon, thank you. Mr. Keen the younger, you are recognized.

MR. JOHN KEEN: John Keen, delegate. I have a couple of questions. I'm somewhat familiar with the Indian Civil Rights Act and I do agree, it doesn't provide for the right to counsel. And I'm not against the right to counsel at the Cherokee Nation's expense.

But there again, we've raised this issue before and I've posed the question, I don't accept that, turning to the Cherokee Bar Association for pro bono work, how are we going to pay for that. You know, that's potentially a very expensive process. And I'd just like to know, where are we going to earmark the money for that.

And secondly, I'm not quite sure about this. If she could scroll down, I could look. There was reference to taking life or property.

If we're not going to make a distinction between misdemeanor and felony, why are we talking about taking life. We don't have the power to deprive people of life. And I submit that we never will.

I don't understand the reference to that, if we're not going to -- you know, as stated -- and I understand it's under debate to be changed in the Indian Rights Act to allow more sentencing power to tribes. But we don't have the right to do that right now. We're limited to one year and a five hundred dollar or one thousand dollar fine.

MR. HANNAH: Mr. Keen, thank you for your remarks. I would remind the delegates that it is now six minutes

past the hour of five. If there is no objections, I would propose that we would recess for the evening meal and that we would reconvene following the evening meal. In one hour. So, therefore, at five minutes after the hour of six, we're at recess.

(dinner recess taken)

MR. HANNAH: The Chair would be reminded of exactly where we are in this process. As I recall, Mr. Gourd, you have a motion.

MR. GOURD: The motion --

MR. HANNAH: Section 2, Article II, Section 2. And we are open for debate. And hearing no debate, then the question is before us.

Now, I don't want to just rush through here because everyone is trying to get their blood sugar regulated. Let's take a look at this.

Therefore, the motion is to Section 2, "In all criminal proceedings, the accused shall have the right: to counsel; for confronting all adverse witnesses; of having compulsory process for obtaining witnesses in favor of the accused; and a speedy public trial by an impartial jury. The accused shall have the privilege against self-incrimination; and the Cherokee Nation shall not twice try or punish an accused for the same offense. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."

MS. MASTERS: Point of clarification. Billie Masters, delegate. If my memory serves me right, we were discussing "accused" or "citizen" at the point that we left the room. Because "accused" would be anyone and "citizen" would be citizen. And that was the point we left on.

MR. HANNAH: Thank you very much, ma'am. And so we are at a point of -- is there any further debate regarding this motion that is on the floor? Mr. Keen, you are recognized.

MR. JOHN KEEN: I would impose a question about paying for the attorneys. Can anybody answer that?

MS. MASTERS: I believe that's how we got to the point of "accused" or "citizen." "Accused" would be anyone that we were dealing with, and "citizen" would be from us. And we were going right at that point when we got -- we were considering that one word there.

MR. HANNAH: Mr. Keen, is that your question? I didn't think it was.

MR. JOHN KEEN: I had two questions. One was that I don't accept the explanation of, we'll turn to the Cherokee Bar Association for pro bono work.

And the second question was, why are we putting in a reference to taking life when it's obvious that we don't have that ability. And I submit that we'll never have the ability to have capital punishment.

MR. HANNAH: Thank you, Mr. Keen. Very articulately presented. Isn't this great. It just took us a few

minutes and we're right back where we were before recess. And you've got to love government. This is good stuff.

Mr. Gourd -- and feel free to call upon any of your associates to respond.

MR. GOURD: Part of my comment, appealing to the Bar Association is more in jest than anything else. But that we feel that it is incumbent upon the government that if somebody is wrongly accused in an action and they cannot afford -- you know, a person needs assistance.

And I'm told that that has been a practice that the Council has appropriated money for, but it is not in any instance ever been -- even come close to the total amount appropriated. Have I stated that right? Or even not even close.

MR. HANNAH: Tina, you are recognized.

MS. JORDAN: I know that in the last seven years that we have had the district court, a little over seven years in existence, the most that has been appropriated for that particular line item was in the area of fifteen thousand, four public defenders in the District Court, and we have never exceeded that. That's actually probably a pretty cheap amount of money to observe minimal due process rights.

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

MR. MULLON: I just -- the point I would make is that I do not believe that the -- it is not necessary to put it into the Constitution that the accused will have his or her attorney appointed and paid for by the Nation. We really have to get into a lot of language if you wanted to provide for that in the Constitution.

You would have to set out, unless you want everyone who ever gets accused gets a free attorney, even if they can afford their own, you're going to have to be very careful about how you're going to write that.

And I think that as it's written, it leaves it open for there to be adequate appropriation. And if a truly indigent person were accused and the Nation were to refuse to appoint him an attorney, I would assume that the judiciary would do something about that, like the United States Supreme Court has done in the context of our own Constitution.

As to the question about the issue of life, that point, I would say, is very well taken. And that shows you what you get from just hurriedly copying another document, and that's a product of that. So it's just another good reason why we should be going through these things very slowly. But I agree with that point. And that's in another section down there; when we get down to that, I suppose we'll address it.

MR. HANNAH: Thank you, Mr. Mullon. Is there any other debate or comment to be heard on the floor at this time? Hearing none, the question is before us, as you see, has been seconded, and all of those in favor of the motion, please signify by saying "aye".

DELEGATES: Aye.

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

DELEGATES: (No response)

MR. HANNAH: And the motion is approved and added to the list. Dr. Gourd.

MR. GOURD: Section 3.

MR. RUTLEDGE: Did we actually approve Section 1 already, or were we --

MR. GOURD: Section 1, we did before we left.

MR. RUTLEDGE: So we did actually approve it?

MR. HANNAH: Dr. Gourd.

MR. GOURD: Yes. Section 3, "The right of trial by jury shall remain inviolate, and the Cherokee Nation shall not deprive any person of life, liberty or property without due process of law, nor shall private property be taken for public use without just compensation."

MR. HANNAH: Section 3 is submitted. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Mr. Keen.

MR. JOHN KEEN: Make a motion to strike the word "life."

MR. HANNAH: There is a motion to strike the word "life." Is there a second?

Mr. Rutledge.

MR. RUTLEDGE: Are we open for debate yet?

MR. HANNAH: We are not open for debate -- well, I take that back, we are open for debate on striking the word "life." And you are recognized.

MR. RUTLEDGE: Delegate Rutledge. One possible consideration for leaving "life" in occurred to me when we talked about situations where the Tribe might help formulate rules or laws regulating whether a person can -- whether it's committing suicide or whether they can -- the right to life or the right to die. There's a lot of issues that actually do deal with life that aren't necessarily included just within the idea of criminal statutes.

MR. DONN BAKER: Mr. Chairman.

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

MR. DONN BAKER: Donn Baker. I stand in opposition to the amendment. I think what we need to consider is, basically what we have here is what we call a Bill of Rights. These are rights that we are giving to our citizens, and telling our government that they cannot deprive us of life, liberty or property.

The fact that there is no death penalty at this time does not mean that our government could not pass a law. And this is basically, even though I'm sure they did take it from the U.S. Constitution, it is rights that I certainly think the citizens of our Nation deserve and that we're not going to just summarily take their life without due process of law, if we ever get to that point.

And that's simply what this is, is a Bill of Rights that

we're giving the people and saying our government cannot do otherwise.

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

MR. HEMBREE: Thank you, Mr. Chairman. Delegate Hembree from Greasy. Ladies and gentlemen, we're here to create a document that's going to last throughout the ages, not just what is appropriate or applicable to the laws up here today.

I think probably the most -- in my opinion, would be the most fundamental or cherished possession that a person has is that of their own life. And a basic, inalienable right should be of the Cherokee people that no government can prescribe a law without due process that would take someone's life.

Now, like I said, it may not be applicable to the laws today. But, ladies and gentlemen, as it was stated earlier we're working on a document that could last a hundred years. I'm not clairvoyant; I don't know what a hundred years will be like.

But I guarantee you, I would like to know that my government could not pass a law that would take my life without due process. And, therefore, I am in opposition to the amendment.

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

Sorry, sir, I was under the indication that you had --

MR. MULLON: Mr. Cornsilk was -- I'll be happy to defer.

MR. HANNAH: I simply was going by the fact that you had taken to the floor first and that he jumped out there in front of you like that. We're not going to wrestle for a position.

And the delegates will thumb wrestle to see who will be able to speak next.

MR. MULLON: I feel like the change, the proposed change to this amendment, deleting the word "life" is very important. There is an implication that arises from a reading of this section that, as long as there is due process, when the Cherokee Nation can take your life.

And now, I know that that is not an action that would occur in probably in any of our lifetimes. But there is one thing, there is an implication of that, and we have to remember that this document, under our own Constitution, unfortunately, under our own Constitution this document is going to be submitted to the Secretary of the Interior.

And I think that if he sees that language in there and he says, isn't there a negative implication here that they can actually take life. As long as there is due process, then the Tribe is reserving the right to take a life.

And right now we're not able to do that. And I'm afraid that that might cause the Secretary not to sign off on the document.

MR. HANNAH: Mr. Cornsilk, do you arise in favor or opposition to the amendment?

MR. CORNSILK: David Cornsilk, delegate. I rise in opposition to the amendment. It would scare the total "bajeeses" out of me to think the Cherokee Nation could take my life. And I

have a lot of reasons to think that.

MR. HANNAH: You, sir, said that.

MR. CORNSILK: One thing I would like for this body to consider is that not more than seven years ago we didn't contemplate the possibility of the Cherokee Nation being able to put us in prison, and that is a possibility today.

We are dealing with a real government. A real government that is slowly cascading to the point of jurisdiction over all tribal members. And whether or not the Secretary of the Interior gets all bent out of shape over the word "life" or not concerns me not. I want to have, in the Bill of Rights, that my life will be protected from my government.

MR. HANNAH: Thank you, Mr. Cornsilk. Does any delegate rise in support of the amendment that is before us? Seeing none at this time, the amendment is before us at this time to amend the language to strike the word "life." It has been seconded. All of those in favor of the amendment to strike the word "life," please signify by saying "aye."

DELEGATES: Aye.

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

DELEGATES: No.

MR. HANNAH: And the Chair rules that the word will stand.

MR. HEMBREE: Mr. Chairman, I move previous question to be a matter on the floor.

MR. HANNAH: The call has been made for the question. Is there a second?

DELEGATE: Second.

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

DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

DELEGATES: (No response)

MR. HANNAH: The question will be before us. Section 3, the motion is before us. "The right of trial by jury shall remain inviolate, and the Cherokee Nation shall not deprive from any person of life, liberty or property without due process of law, nor shall private property be taken for public use without just compensation."

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

DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

DELEGATES: No.

MR. HANNAH: And it is approved and added in seriatim process. Dr. Gourd, you are recognized.

MR. GOURD: Section 4, "The Council shall make no law prohibiting the free exercise of religion or abridging the freedom of speech, or the press, or the right of the people to peaceably assemble, and to petition the Nation for a redress of

grievances."

MR. HANNAH: Motion is on the floor. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Delegation is open for debate. Those who would rise in opposition to the motion? Hearing none, very well, the question is before us.

Section 4. "The Council shall make no law prohibiting the free exercise of religion or abridging the freedom of speech, or the press, or the right of the people to peaceably assemble, and to petition the Nation for a redress of grievances."

End of revised article. All of those in favor, signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

DELEGATES: (No response)

MR. HANNAH: And it is approved. Dr. Gourd, you are recognized. End of the article.

MR. GOURD: Mr. Chairman.

MR. HANNAH: I had a momentary lapse of memory.

MR. GOURD: Oh, thank you.

MR. HANNAH: Thank you, sir. What is the pleasure of the delegates? Mrs. Foster is back? Julia.

MS. FOSTER: My fellow delegates, I want to thank you today for taking a look at the proposal which I hope you have in front of you. It's been on the table since yesterday, so I won't read it again. I don't think there's any necessity to do that.

It's a very, very great honor to be included in this conference, this convention this weekend, and in the days ahead. And I just want to say that I'm really, really honored to be able to serve with all of you and to be able to present this proposal to you this evening.

My proposal asked you to consider the following arguments in favor of creating representative seats on the Tribal Council of the Cherokee Nation for Cherokee citizens who live beyond the historical boundaries of the Cherokee Nation.

At the present time the citizenry of the Cherokee Nation numbers over two hundred thousand, approximately half of whom reside outside the historical boundaries of the Nation.

In this respect, the Cherokee Nation, as has often been the case, finds itself in the forefront of a demographic trend, as is the case among all native nations on the North American continent. Our populations are growing, but our historical land basis remain limited.

The dispersal of population is the situation in all Indian nations today and this trend is only going to increase. The dilemma facing us is one of maintaining tribal culture and tribal ties in that situation.

Can we find innovative ways to continue our cultural and

governmental heritages, extending them beyond the boundaries of a geography that is becoming more and more limited in relation to our expanding numbers?

To date, the Cherokee Nation has not grappled with this question in any substantial way, and yet we are the Nation, among all native nations, that displays this trend to the greatest degree.

The action that we take may provide a model that other native nations can follow, or the inaction that we display may result in a dismal example that other nations will want to avoid.

It is my belief that we can develop a stronger nation through the incorporation of all our citizens into as full a participation as possible in the national and cultural life. This does not exist at the present time. It is a vision that must be developed, particularly among the non-resident Cherokee populations.

This is a very diverse population. Many of us have been away from the historical area for several generations, others have moved just last month. Many retain close ties with family and community in the fourteen counties; others have never even been in the state.

Many have found the success and economic and family life that they sought by leaving, while others have found themselves trapped in urban poverty. Many continue to feel strong pride and deep involvement with their nation and their people, and others have but a passing interest at best in their Cherokee heritage, and little or no sense of nationality.

But in fairness, this last statement is probably true of the Cherokee population remaining in the historical region as well.

We are as diverse a group as the Cherokee population that remains within the fourteen counties. The diversity of the non-resident population is often ignored and we are categorized into a few negative stereotypes.

Among the most prevalent stereotypes are that we are uninformed and uninterested. While this is certainly true of some, I hope you can acknowledge by the presence of seventeen delegates to this convention who are non-residents, there are substantial numbers of us who continue to feel deep concern, involvement and profound love for this Nation and her people.

The Cherokee Nation is our nation too, and the Cherokee people are our people too. And we are yours.

Our concerns are for our Nation and all our people, including the people who are here in the fourteen counties. Issues that concern the well-being of national sovereignty, resource development, and cultural preservation are our interests as well. In these respects, every Cherokee citizen is impacted because our Nation as a whole is impacted.

But we believe the more important function of the non-resident representatives would be in representing the interest of the Cherokee Nation and, most importantly, the Cherokee people from the fourteen counties to the non-resident Cherokees.

The non-resident population want to understand more about

the internal situation for Cherokees in the historical boundaries. These would be the state of Oklahoma, local county commission, town councils, et cetera, that could frequently be quite oppressive to regional Cherokees.

From this increased awareness, the non-resident population can play a role in bringing pressure to bear from outside, to decrease the level of corruption and discrimination that is often directed at the Cherokee people.

The Tribal Council representatives can be an integral part of developing the outlying population, the non-resident population, to this responsibility.

Many people have suggested one representative for the non-resident Cherokees. This is not a real attempt to address the incorporation of half of our citizens. Laying responsibility on one person to cover virtually an entire continent is inhuman.

Thus, I am suggesting that a figure of twenty percent of the Council members to represent a population of fifty percent is fair at this time. If the convention desires twenty-four representatives to cover the historical districts, then I would suggest that that be made eighty percent of a baseline figure of thirty.

This would seem only equitable and would ensure that the six representatives or the twenty percent of representatives of the non-resident areas, which would include the other areas of Oklahoma, could perform a more reasonable service to the people and the Nation.

And, incidentally, the twenty percent figure approximates very closely the representation of seventeen out of seventy-nine delegates to this convention. If the Nation has seen fit to seat us at the constitutional forum, why would it then turn and shut us out of the legislative body.

As a nation, we need to develop stronger bonds between our very diverse citizenry. I hope we all realize at this point in time that there is no one way to be Cherokee, and there is no one place in which to be Cherokee.

Our land base is minimal at this time, but in some sense our Nation exists from coast to coast and border to border because our Nation exists in our people, our citizens, and our citizens are everywhere.

It may be true that interests and involvement are harder to maintain when we are so widely dispersed. But interest and involvement are also harder to maintain when, as a nation, we make little or no effort to retain our citizens once they move away from this very tiny place that cannot at this time contain all of us.

We need to make strong, concerted efforts to retain our outlying citizens, both culturally and politically. Providing direct representation on the Tribal Council for the at-large population would be an important first step to developing better citizenship and greater overall advocacy to the larger world on behalf of the Cherokee Nation.

The ties that bind are very, very tenuous at this point. I ask you to strengthen them tonight. Thank you.

(Applause)

MR. HANNAH: Julia, thank you for your remarks.

And, therefore, I assume that you are proposing the revision that has been distributed to the delegates.

MS. FOSTER: I am.

MR. HANNAH: So the motion is on the floor.

Article V, Legislative, Section 3, "The Council shall consist of thirty (30) members, who are citizens by blood of the Cherokee Nation. Each Council member shall be elected in the general election for a term of four (4) years and until his or her successor is duly elected and installed.

"The Council shall establish representative districts which shall be within the historical boundaries of the Cherokee Nation, and which shall be represented by eighty (80) percent, twenty-four (24), of the elected Council representatives.

"The Council shall also establish representative districts which shall exist outside the historical boundaries of the Cherokee Nation and which shall be represented by twenty (20) percent, six (6), of the elected Council representatives.

Historical districts shall be apportioned to afford a reasonably equal division of Tribal citizenship among those districts, and the outlying districts shall also be apportioned to afford a reasonably equal division of Tribal citizenship among those districts, although there need not be equal apportionment between the historic districts and the outlying districts.

"Each elected Council member shall reside in the district he or she represents. All seats on the Council shall be organized to create a system of staggered terms to fill an alternating number of seats by election every two (2) years. To implement this enlarged system with staggered terms, a regular election shall take place in the year 2001 to fill the additional fifteen (15) seats according to the reapportionment plan which shall be developed by the elected Council of 1999 and which shall be completed no later than one hundred and eighty (180) days prior to the election in the year 2001."

Section 4 --

DELEGATE: (Inaudible)

MR. HANNAH: Section 3, thank you, good point.

There is a motion on the floor. Is there a second?

DELEGATE: Second.

MR. HANNAH: And there is a second and we are open for debate.

MR. CORNSILK: Mr. Chairman.

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

MR. CORNSILK: I jumped up first.

MR. HANNAH: This time.

MR. CORNSILK: This time. I rise in opposition to this amendment, and not because I don't believe that the

non-resident Cherokees shouldn't have representation, but because I believe they already have representation. The Cherokee Nation right now incorporates the non-resident Cherokees in terms of apportionment, adding them into the district mix, and I find it of great concern that a small group of people, seventeen -- and I'm not saying that all of you are saying this, but that seventeen people might suggest that fifty thousand, sixty thousand, or seventy thousand people are not capable of coming back to the Cherokee Nation in some meaningful way and incorporating themselves either by participating, voting, becoming educated.

And it just concerns me that the Cherokee Nation, creating districts outside of its own boundary, I'm not sure that we're capable of doing that. I'm not sure that we want to do that.

And I also want to stress, the Cherokee Nation is a real place, that it is here. That it is within the exterior boundaries of the Cherokee Nation as described in our treaties, and that the focus of the people who live outside the Cherokee Nation should be to strengthen the Nation, the place here.

And if you ever want to come back, you're welcome to come back. Come live with us. You're welcome to participate, you're welcome do to whatever you want. But this is the Cherokee Nation, this is the place. We are the people, and you are a part of us. Focus here, don't try to drag it out and spread it out, make it like butter on a piece of bread. Don't get it too thin.

MR. HANNAH: Thank you, Mr. Cornsilk. The good lady from Tyler, Texas, is recognized.

MS. BERRY: Delegate Berry, Tyler, Texas. I am arguing for it. In-boundary citizens seem to have a misconception, indeed a fear, of non-resident Cherokees. They feel we do not deserve to have representation on the Council.

Just because we live across a line on a map does not mean we are no longer Cherokee. We are there because our parents or our grandparents trusted relocation programs or because someone in our family has found work there.

Cherokees constantly count us to tout the size of the Nation, and Cherokee politicians count on our votes to get elected.

But in reality, we are second class Cherokee citizens, ignored as disinterested, uninformed outsiders. We have little or no influence on the candidates we've elected.

But we are not uninformed. Forty percent of us live right here in Oklahoma, often just across a river or a highway from you. They read the same newspapers, they watch the same news cast that you do. How can they be uninformed?

And those of us who do live away read tribal newspapers. We also subscribe to mainstream papers throughout Cherokee country. We have relatives in boundary who clip articles and mail them to us, and many of us get daily news on the Internet. With the click of a button, we can read any article containing the word "Cherokee."

And disinterested, the system itself eliminates those who are disinterested. Absentee voting is so complicated, in fact, that

in the 1995 election, one thousand seven hundred and eighty absentee ballots were never returned.

When the voters realized the effort required to vote, they simply gave up. The system eliminated their votes.

Perhaps the greatest fear of resident Cherokees is that non-residents will take over. In the '95 election, the results of three Council races were influenced by absentee votes. That is not fair to the residents of those districts, nor is it fair to us to have enough votes to elect Council members and then feel neglected by the Council.

Cherokees, it is sabotage to give our children a head start, nurture them through high school, train and educate them, fight prejudice in the workplace, so that they can be anything they want to be, anywhere they want to be it, and then slam the door behind them when they cross the boundary and label them forever after "outsiders." And every time we are seen as outsiders, the now defunct relocation programs are still doing their job.

But we relocated Cherokees who want to be a part of our culture and our government are not going to go away. We are here to stay. We bring with us a great resource. In the battle for tribal sovereignty, every single Cherokee is precious, no matter where we live.

When prejudice and sovereignty issues appear on the national scene, we can influence thinking in communities all across America, and put pressure on legislators in every state in which we dwell.

But we must feel like and be seen as full partners in Cherokee government, with all of the rights of every other Cherokee.

Make us first class citizens. Give us representation on the Council. Thank you.

MR. HANNAH: Thank you very much. Delegate Hembree.

MR. HEMBREE: Delegate Hembree from Greasy.

MR. HANNAH: How do you rise? In opposition?

MR. HEMBREE: I rise in opposition. I have a couple of problems with the amendment as proposed. Number one, we are automatically doubling the cost and infrastructure and the -- we are doubling our size of government in one belt. And I don't think that's something we should take lightly here.

Secondly, and this is also a cost issue, the amendment as stated requires that a Council person reside in the district that they are elected. That sounds good and that would be -- you would expect that from district representation.

But I can only predict that some of these districts, if this was passed, would be created in the state of Texas, some of these districts would be created in California, New Mexico, North Carolina, who knows where.

Are we really going to go to the expense of flying these Council people in for every committee meeting, for every Council meeting? If you just think about the logistics of that, and that

could almost quadruple the size that we spend on our government, which I've been told right now in the Council we spend about a half a million dollars. Do we really want to spend a million, do we really want to spend one point five million or two million? I don't think so.

This is a very good ivory tower amendment. I mean, in a perfect world this would work. But we are dealing with a government -- a real government, a government that has to live within financial constraints. And this constitutional amendment, I think, will totally blow that out of proportion. So I would move in opposition to that amendment.

MR. HANNAH: Good lady from Houston is recognized.

MS. SCOTT: Deborah Scott, delegate from Houston. I speak for the amendment, and I want to address several of the fears and concerns that I hear voiced today.

First I wanted to say, it is an honor to be here. And my relative was a representative at the 1830 Constitution, so this was kind of special to me.

I do want to address Mr. Cornsilk's issue that we already have representation. In fact, we have that on paper, but that's not a reality. When everybody represents you, nobody represents you.

So if I have eight delegates that are supposed to represent me in Houston, I never see them. And I may have a different delegate than my neighbor next door. Our voice is diffused. There is no one person that hears all of the concerns of Houston and can bring that forward to the Council.

So you have -- I may have a delegate who hears my voice and he discounts me because I'm just one voice, because he doesn't represent my neighbor.

So what we're asking for is a way that we can have one voice brought before the people so that you hear our resources and the things we can bring to the table as well.

I hear the concerns about cost, that this would be so, so expensive. There's a cost to inclusion, there's a cost to government. But we have technology today. We have teleconferences today, we have telephones today, we have chat rooms today. There is nothing to say that this person has to physically be here at every meeting to have representation.

I think to allow us to limit ourselves for the next twenty years or one hundred years because of a cost factor is very small and narrow-minded. And I would encourage us to think a little bit beyond that, and not be fearful that something is going to happen to break the bank because we allow people to have a voice.

So I would encourage you to consider that we are planning for the future. Our future lies out there. There are resources out there that can come and support us here. And to move beyond the fear of what that might mean to the vision of what good things that might happen. Thank you, very much.

MR. HANNAH: Thank you, ma'am. I believe that

the good Doctor over here was next in line. How do you address; for or against?

MR. ROBINSON: I'm against this amendment. I'm Delegate Richard Robinson. I have some of the same concerns that have been voiced by Mr. Cornsilk and Mr. Hembree.

One of my main oppositions is that this makes the Council much too large. I see no rationale for enlarging the Council. I see no rationale for the extra expense.

Also, I need to tell you, I'm not a fan of technology. I am not a fan of chat rooms. It's much too easy to say whatever you want.

Also, I think a Council person should be physically in the Council chambers. I have, as I stated before, an amendment to this that I hope I'm going to be able to present, maybe right after this one is -- if this one is voted down. I don't know what happens if this one is voted to be good.

But I have an amendment. I am not so much opposed to having a representative for those individuals that live outside our jurisdictional area. I think the enlarging of the Council is not good, the percentage is not good.

In my proposal I have one spot for these individuals. It is harsh to say, but at one time, yourself or an ancestor decided to move away from our area. It's much as individuals that live in Europe, and I have lived in Europe several times. We did not get a special district, a special House of Representative or Senator for the two or three million individuals that live in Europe. America probably has twenty million people who live outside the country, and they all vote for someone in their home area.

So I am in opposition of this for many reasons. Thank you.

MR. HANNAH: Thank you for your remarks, Mr. Delegate. You are recognized, sir.

MR. ALBERTY: Dewey Alberty, delegate.

MR. HANNAH: How do you rise with regard to the motion, Mr. Alberty?

MR. ALBERTY: I favor the amendment because I hear a thinking about not wanting to enlarge. And what, in fact, you're doing is reducing, you know, the representation area. You see right up there on that third sentence, that the Council shall establish -- representative shall be within the historical boundaries of the Cherokee Nation of Oklahoma.

And we've been abiding by the counties, you know. District 8 comprised the Washington and Tulsa Counties. And I live -- what do they call that term, outside/inside. I'm not inside the boundary, but I'm within the Tulsa County.

So it seems like we're moving in the wrong direction in that respect. I respect the tribal boundaries, you know, but I pride myself of being just a little ways from that boundary. And then to shut it off, you're reducing yourselves. I support this one.

MR. HANNAH: Thank you, Mr. Albery. Mr. Mullon.

MR. MULLON: Thank you. Delegate David Mullon. I am rising up against the amendment. I do recognize that the Cherokee people who live outside the boundaries of the traditional jurisdictional area of the Cherokee Nation are at a disadvantage.

They are not adequately represented, given our current state of affairs, and they do not have the representation that they need.

But that said, I do not think this is the way to cure that problem. It's one thing to be talking about an at-large representation, one or more at-large representations. But this thing does a whole lot more than just create at-large positions.

We're talking about creating districts of the Cherokee Nation in other states of this Union. And frankly, there is a great traditional concept that's well -- very well accepted in Indian law, and that is the territoriality of the homeland. That is where the people reside.

What we're doing here is, we're creating outposts of Cherokee Nation with territory in other states. And I just -- I have no idea what the implications of that are. It's not spelled out in this amendment.

Does it carry with it some kind of implication of jurisdiction in that area? Does it carry with it the obligation to provide services in that area? That is not addressed in this amendment.

But the idea that you would create a district in some foreign state that we do not have any holding, we do not have a tradition in, it is really very anomalous. It would be like the United States of America having a large population of its citizens residing in Costa Rica, to form a district in Costa Rica and start having them send Congressmen coming over here. It's the same thing.

It would be like having a district in Australia and have some United States citizens elect a representative of the House of Representatives and send them over from Australia. That's what we're talking about here.

I agree the at-large problem, the representation of the people outside the boundaries has got to be dealt with somehow, but this doesn't seem like the solution to it.

I would very quickly point out that I rise in opposition to this amendment as well because of the doubling of the size of the Tribal Council.

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

MR. MacLEMORE: Frank MacLemore, delegate from Dallas. I would like to think that the document which we're seeking to create is in perpetuity. I would like to think also that the Cherokee Nation is more than just its territory boundaries. I'd like to think that the Cherokee Nation is people, wherever we are.

I remember when we formed the community rep organization

back in 1970 and '71. Mr. Gunter and myself and others in Dallas formed a community organization of about forty people and we elected several delegates to be a part of that community rep, in which Mr. Alberty was a part of as well.

We traveled from Dallas area once a month to attend monthly meetings of the community reps, and we were so recognized as being a part, equally a part of that community rep organization to help Mr. Keeler and others to lead this Nation toward organizing and establishing a Constitution, which later we were able to elect, have a voice in electing our leaders.

Namely, first, the Principal Chief. Secondly, a Tribal Council. We were a part of the formation of what we're dealing with today.

And now, all of a sudden, we're being cut out. And yet, we're just as much a part of you, as Julia has indicated, as others are who live right here. Yes, you make us feel like shut-out or second class citizens.

We have to work doubly as hard in Dallas to get representation and to get recognition. Yet, we plea, or at least I do, from Dallas to get leaders down there to speak on behalf of the efforts we do in Dallas for the well-being of our people.

Not just Cherokee people, but more so, when we do that, to support our efforts, educationally, to improve our health care. Likewise, we would like to do the same for what is going on here. So I rise to speak to support the amendment. Thank you.

MR. HANNAH: Thank you, Mr. MacLemore. Delegate Mary Ellen Meredith from Oklahoma City, you are recognized.

MS. MEREDITH: I thought since I was from Oklahoma City it would be important that I say something, because I do live outside of the Cherokee district, or the old Cherokee Nation.

But I think some of the people who are speaking make it sound like we are not represented at all, which is not the case. In Oklahoma City, I have politicians who represent me at the local and state level, and I never hear from those people until I get a card when it's time to elect them.

I do vote in the Cherokee elections and I am represented there; and if I had an opportunity to be represented by somebody representing the people at-large, I would prefer not to be. I'm from Chelsea. The only land that I own in the Cherokee Nation is in the Chelsea cemetery. That's where I want to be represented.

I also think that as a very brilliant friend of mine pointed out the other day, if you have a community organization in Dallas or Houston, you could all get together and register in the same district and have a real effect on your person who represents you. Thank you.

MR. HANNAH: Thank you for your comments. Kind sir, you are recognized.

MR. CLARKE: My name is William Clarke and I'm a delegate from Muskogee. I'm also an employee of the Cherokee Nation

and I reside outside the historic boundaries of the Cherokee Nation.

I am aligned with the Three Rivers District and that's where I vote. However, I am inclined to favor having Council representatives for those of us who do reside outside of the historic boundaries of the Cherokee Nation.

I disagree with this large number. I would offer, Ms. Coates, if you are willing to accept, I guess it's a friendly amendment, in which we would maintain the fifteen Council members that we currently have, with an addition of several representatives outside, who reside outside.

My heart is domiciled here in Tahlequah. I was born on my mother's allotment down here at Pettit, but it just so happens that I physically reside outside the boundaries.

I have a very strong feeling, I have discussed it, and I know there's a lot of pros and cons, and I can certainly see both ways. Being an employee here, I'm the Deputy Executive Director over the human services program for the Tribe and I know how difficult it is, money, and we're strapped in a lot of areas.

So I do want to suggest to you and recommend that we keep the cost down as much as possible, but I also am in favor of those Cherokee citizens who reside outside the jurisdictional boundaries to have representatives on the Council who also are outside the boundaries.

MR. DOWNING: Point of information.

MR. HANNAH: Yes, sir.

MR. DOWNING: I look up here and I see fifteen and I see twenty-four. And it was my belief that we were debating the top one.

MR. HANNAH: We are so sorry. This is simply on the screen, and this section has been set aside in deference to the proposal by Ms. Coates that is in your hand. Unfortunately, we do not have the ability to bring that onto the screen.

MR. DOWNING: That's okay then. Basically we're talking about a twenty-four member Council, is that right?

MR. HANNAH: Yes, sir -- I take that back. Once again, the motion is on the floor, and I'll wave it here so you can see it. This is Article V, Legislative, submitted by Julia Coates Foster. And, Julia, forgive me for not getting your name proper earlier. And I will restate that the Council shall consist of thirty members who are citizens by blood of the Cherokee Nation.

MR. DOWNING: That would be an increase of six, right?

MR. CLARKE: Mr. Chairman.

MR. HANNAH: Yes, sir, you are recognized.

MR. CLARKE: I did make a friendly amendment and I would like for her to respond.

MS. FOSTER: I would respond that I don't think we have, as a body, decided on the number of Council representatives that we are going to put in the new Constitution.

So my emphasis is really more on the percentage, rather

than the total overall number. I am really more interested in the twenty percent figure of whatever this body decides they want as a number for the Tribal Council.

MR. HANNAH: I will conclude that the kind lady does not accept it?

MS. FOSTER: No, no, no. With that caveat, I would accept -- if we can say a percentile of, I would accept the friendly amendment by the delegate. If there was a set percentage or a set number that could be, I would accept.

MR. HANNAH: Just a moment, folks. If we're about to introduce a friendly amendment for your consideration and inclusion on the screen, I want to make sure that it has some definite language about it. So is there a friendly amendment being presented at this time?

MR. CLARKE: Yes. And I would recommend that instead of thirty members to the Council, that it be fifteen for those who -- inside the historical boundaries. And for those outside, I would recommend six. Make it three. Make it three.

MR. HANNAH: Let's not all get confused.

MR. CLARKE: Twenty percent, which would be three.

MR. HANNAH: The Chair has lost the amendment. I'm sorry. You're going to need to restate it.

MR. CLARKE: The Council consists of eighteen members, fifteen within the jurisdictional boundaries and three outside.

MR. HANNAH: I understand that. Thank you, sir. We're about to find out, Ms. Foster, do you accept the friendly amendment?

MS. FOSTER: Again, I don't know what this body is going to do in terms of deciding on -- I'll accept it. But I think we do need to keep it in mind as a percentage so that if this Council does -- or if this convention does decide to enlarge the Council, that an approximate percentage is maintained.

MR. HANNAH: Friendly amendment is accepted for, the Council shall consist of eighteen members, fifteen within the historic districts and three outside; is that correct?

Ms. Birmingham, you have been most patient. My apologies to you if I have overlooked you. And you are recognized.

MS. BIRMINGHAM: I rise in -- well, since it's a moot point now. Friendly empathetic opposition. I think we should stay with the number of Council members that we have now.

However, I think we have in process a -- perhaps a new section that would address the concerns that Ms. Foster has, in that we could apportion the Council members from each district out in radiated format to encompass those citizens who live outside our jurisdictional area, to represent them solely and be accountable to them.

MR. HANNAH: Thank you for your comments.  
Delegate Plumb.

MS. CHAPMAN-PLUMB: Delegate Chapman Plumb.  
Thank you, Mr. Chairman. I would like to recommend that since each one of these proposed sections begins with the verbiage, "The Council shall consist of X number of members," why don't we limit our debate to the number of members and then move on to the matters that will be affected significantly by the number that is going to be on the Council.

MR. HANNAH: Do you rise to bring a motion to create a blank on the number of Tribal Councilors then? Do I understand that correctly?

MS. CHAPMAN-PLUMB: No.

MR. HANNAH: Okay. So what is your purpose?

MS. CHAPMAN-PLUMB: Let me rephrase it. I would move to table this motion and to bring a motion that just deals with the number of members that we are going to have on the Council.

MR. HANNAH: You're moving to table the motion that is before us, which is the motion considering the proposed revision of the Constitutional Article V, Legislative, submitted by Julia Coates Foster; is that correct?

MS. CHAPMAN-PLUMB: Yes.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Debate is open.  
Hearing none, all of those in favor for tabling this motion before us, please signify by saying "aye".

DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

DELEGATES: No.

MR. HANNAH: The "ayes" have it, and this item is laid upon the table. Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Before I deferred previously to the proposal by Ms. Foster, I had introduced a motion that this assembly accept or approve of the language appearing in Section 3, Article V of the revised Constitution prepared by the Commission.

I'd also read the language in that section as well. Unless a delegate wants me to, I will not read it again. But I will state that the substantive change contained in this is obviously the extension of the Council from fifteen to twenty-four members.

And the rationale behind the Commission's recommendation is that essentially it would provide for better representation in our government and would help to decrease, you know, polarization of our very small legislative body and partisanism. And that is the basic rationale.

Again, it's already been stated previously that when this Council was originally designed in 1975, this Nation was of approximately forty thousand members. We are now a nation in excess of two hundred thousand, many of which are non-resident at this point. But it just seems completely disproportionate to me that we have such a small group of people, eight effectively forming a

majority, that can conduct the legislative business and responsibilities of a nation of this size.

So with having said those comments --

MR. HANNAH: Thank you very much, Commissioner Keen. And we are open for debate. Doctor, you are recognized.

MR. ROBINSON: Delegate Richard Robinson. I think I'm in order, hopefully. But I'm wanting to propose an amendment to this. Am I proper?

MR. HANNAH: You are proper, sir.

MR. ROBINSON: And I have it here, but I'll read it before I turn it over to you all. In regard to the section we're dealing with here, the entire Section 3, Article V, be stricken as presented in the Commission's revised Constitution and the following language to be inserted:

The Council shall consist of fifteen members who are citizens by blood of the Cherokee Nation. The Cherokee Nation shall consist of nine districts, and each district will be represented by one Council person.

Five additional Council persons will be elected at-large, and one Council person will be elected to represent those members who reside outside of the historic boundaries of the Cherokee Nation.

The nine district representatives will be elected by the respective districts and will be residents of said district. The five at-large will be elected by all citizens that reside within the historic boundaries of the Cherokee Nation. The Council person representing those citizens outside the Cherokee Nation will also reside outside the historic boundaries of the Cherokee Nation.

And I do want to apologize for this language if it's not quite proper in a constitutional document. My reasoning behind this is, as I travel around the nation, and especially among some of you full blood components of our Nation, in Adair and Cherokee and Sequoyah Counties, I hear a lot of full bloods talk about all of this.

But a lot of them will say, we need to get back to at-large districts. Some will say, well, we need a district. And I do, you know, have sympathy for those that live outside that have a specific district.

So I am presenting this as a compromise. And once again, the reason for the fifteen is, I feel like that is an adequate number, especially if we take care of some of this representative problem. And that twenty-four or thirty are just too large of a number to function well. So I present this motion. I hope someone will at least second this motion.

MR. HANNAH: No apology is needed, sir. This is a delegation of citizens. And there is a motion before us. Is there a second?

MS. CHAPMAN-PLUMB: Point of order.

MR. HANNAH: Yes, ma'am.

MS. CHAPMAN-PLUMB: I believe the motion that is

on the floor deals strictly with Section 3 insofar as it refers to the number of Council members, and that is all. That's the motion that I made.

MR. HANNAH: I'm sorry. Perhaps the Chair has lost it. But the Parliamentarian --

MR. ROBINSON: Point of information.

MR. HANNAH: Yes, sir.

MR. ROBINSON: Was there a second or not?

MR. HANNAH: No, we have not accepted a second at this time. We have a point of order here that we're addressing. I believe the answer is no, we did not take action because there was not a motion generated, as I recall.

MS. CHAPMAN-PLUMB: How would I contest that? I've got witnesses.

MR. HANNAH: Okay. If you have witnesses, that would be fine because the Chair is a very pliable individual.

MS. CHAPMAN-PLUMB: Or I could make the motion. You can have your choice.

MR. HANNAH: Yes, you could. You could do that. We will have to act on the motion that we have on the floor at this time. And I will do something novel and ask you how you wish to proceed. If you would like to produce witnesses, and I will be corrected. As we heard last night, the Chair can be wrong and it's not exactly as though it's been a short day. So I'll turn to my fellow officers here. What is your recollection of --

MR. JOHN KEEN: Mr. Chairman, I believe she made a motion to table it. When you table a motion, it's without any particulars. It's tabled.

MR. HANNAH: Thank you very much for the clarification, Mr. Keen, but I believe that -- it's my impression that we were tabling the discussion of Ms. Foster's Article V. And now this comes back to my memory, and that was, in fact, I believe, the way that I styled the tabling of this. So the entirety of this presentation has been tabled by your motion and it was passed.

MS. CHAPMAN-PLUMB: That's fine. Thank you, Mr. Chairman. And I move that we deal with Section 3 insofar as it deals only with the number of Council members.

MR. HANNAH: Hold it, folks. Just a second now. You would be out of order with that motion. We have a motion on the floor, and I've asked to hear if there is a second.

MR. DOWNING: I'll second it to get it going. But that's not why I stood. I stood for a point of procedure.

MR. HANNAH: There is a motion on the floor presented by Dr. Robinson and it has been seconded; is that correct, sir?

MR. DOWNING: Yes.

MR. HANNAH: Okay. The floor is open for discussion.

MR. DOWNING: I believe that this motion should not be accepted because we tabled a motion that dealt with

representation and the numbers. This motion that was presented also deals with representation and numbers. It seems to me that that's a conflict.

MR. DONN BAKER: Point of order.

MR. HANNAH: One moment here, folks. We have a point of order. Mr. Baker, you're recognized.

MR. DONN BAKER: How in the world can you second a deal and then stand in opposition of it?

MR. DOWNING: I believe in open discussion.

MR. DONN BAKER: I don't believe we can -- if we've got a true second. This thing is fixing to die without a second. And I think we're wasting time for someone to second a motion, telling us that they're in favor of it, and then to stand in opposition. I think that's wrong.

MR. JOHN KEEN: Point of order.

MR. HANNAH: Mr. Keen, point of order.

MR. JOHN KEEN: I would ask the Parliamentarian to help me on this, but I don't believe that the gentlemen here, the delegate here was recognized by the Chair to make a motion. He rose to second and was not recognized by the Chair. Likewise with Ms. Plumb, she was not recognized by the Chair to make a motion.

MR. HANNAH: Let's hang on here just a second, folks. Wait just a second. Let's all catch a breath here. We're doing a good job. I'm very proud of all of you. We're going to keep this under control.

And you were correct, sir, in your review that this gentleman was recognized for his second. The Chair was in error to allow him to speak. And, Mr. Baker, you give us food for thought. Not only for this exchange, but for future exchanges. Bad form for us to take opposing courses of action.

I will ask that, do you want your second to stand, sir, or do you wish to withdraw?

MR. DOWNING: I want it to stand. I would like to hear it discussed.

MR. HANNAH: And your second is so noted.

MR. McDANIEL: Mr. Chairman, I want a little information.

MR. HANNAH: Point of information, good man. My good friend from Muskogee, please state your name for the record.

MR. McDANIEL: Calvin McDaniel from Muskogee, Oklahoma.

MR. HANNAH: Yes, Calvin.

MR. McDANIEL: On this screen here, it doesn't have the full printout of the Section 3. It's got the -- it looks to me like it's got the first half of it.

MR. HANNAH: And we have the ability to scroll down there, Calvin. We'll do that for you now so you can see that it's there. There it is.

MR. McDANIEL: It's going to be treated like one article; is that right?

MR. HANNAH: Section 3 is what we're dealing with.

MR. McDANIEL: Well, it's going to be on the screen or --

MR. HANNAH: Unfortunately, because of the page break or the way that it is on the computer, Calvin, we can only look at one paragraph, then we have to scroll down and see the other. I am very apologetic for that.

MR. McDANIEL: I thought it might have been for some other reason. I didn't know.

MR. HANNAH: Thank you for clarifying it for us, though, because you've helped us to see exactly where we are with the process. And I believe that Mr. Lay -- or Mr. Hathaway, you gentlemen will have to help me on who was standing first. Mr. Hathaway, would it be you?

MR. LAY: I yield to him.

MR. HANNAH: You defer, Mr. Lay.

MR. HATHAWAY: Point of information. Did the Chair, in the motion made to table, as I know that it was intended, was to table all of the consideration of Section 3, but for the number of legislators? The way it was -- and that was the motion tabled.

If that was in order, that was the intention of the gentle lady's statement. And as it was understood by some of us when we voted, we thought we were going to be moving to the number.

If that is not in order, it's not correct, then we should proceed back to the question that we had, if that's the proper way of doing it.

But if we did have it, if we approved that, there maybe just was confusion about our vote. But the intention, as she stated it and as I understood it, was that she was trying to table everything other than that motion, so that we would have the single issue before us on the previous motion.

I don't know if that is in order. But if it were, that was the intention, as I understand it, of the previous approved motion.

MR. HANNAH: Thank you for your point of clarification. I think the Chair was confused as to the gentle lady's motion to table. And I would take a privilege from the podium to recess this group for five minutes for us to stretch here for a moment.

MR. ROBINSON: Mr. Chairman, may I withdraw my motion? Is that a problem?

MR. HANNAH: I don't know. We may have to take a vote on it.

MR. ROBINSON: I think it's a great idea, but we're wasting too much time on it.

MR. HANNAH: Thank you very much. Your motion is withdrawn. And the second will elapse.

MR. DOWNING: I'll withdraw. But I'd talk to

you afterwards and your Parliamentarian.

MR. HANNAH: Okay. Very well. I assure you we will both be available for you. Mr. Lay.

MR. LAY: I would like to make a motion here that we speak about Article V, Section 3, one paragraph at a time, and that will bring up the numbers first, and that will take care of all of this.

DELEGATE: I second.

MR. HANNAH: There is a motion on the floor and a second to bring up Article V by section. Therefore, section --

MS. SCOTT: Point of order.

MR. HANNAH: Just a moment. The kind lady from Houston.

MS. SCOTT: Point of order. We have Ms. Plumb's issue to address. I thought hers was that we were just to talk about the number of delegates that we were going to talk about. Not section by section, but just that point. Was that not what you --

MS. CHAPMAN-PLUMB: That was my motion. There are some districting issues that I may not want to address, that obviously some people want to address those. And you cannot take Section 3 as a whole, expect people to vote on that, and then bring up these districting issues. We've got to deal with the number first or we're going to be here until three o'clock in the morning.

MR. HANNAH: Point well taken. Mr. Keen, you're recognized.

MR. KEEN, JR.: Mr. Chairman, I would just make the suggestion to the Chair that we do, in fact, take a short recess so you can confer with the Parliamentarian and kind of sort this thing out.

MR. HANNAH: Thank you. Before that though, I would like to call on the Parliamentarian to discuss a technique from Robert's Rules that we each consider to be able to move forward, so the Chair will not be confused and the delegates will not be confused and we can be about the business.

Will you do so, ma'am.

MS. LANGLEY: It sounds like very few of you have ever worked with creating a blank. If you create a blank, you can put anything you want -- you create a blank for the number of Council members, I would suggest.

Okay. So it comes on the floor and anybody can suggest a number. You'll say seven, you'll say fifteen, you'll say thirty, you'll say twenty-five, et cetera. Whatever you want to say, you don't have to have it seconded or anything. Those are all entered down.

Then you go -- you discuss it. You know, I like so and so, I dislike so and so, et cetera. And then you vote on seven, the next highest number, the next highest number. And whichever number gets the majority, that's the number of delegates -- or Council members that would be in this place right here.

I think, to me, that would be an easier way to do it than

try to say, I move for fifteen. Well, we defeat that one. Well, I move for seventeen. We defeat that one.

But I may be wrong. But that would be my suggestion, to create a blank, fill it with anything anybody here suggests, discuss it, and then vote on it, based on the smallest number up to the largest number.

MR. HANNAH: Thank you for clarification. Mr. Keen, you are recognized.

MR. KEEN, JR.: No, sir.

MR. HANNAH: Just hanging out there, weren't you. In that case, privilege of the Chair will be to call recess for five minutes. Be back in here soon.

(recess taken)

MR. HANNAH: Chair recognizes Delegate Chapman-Plumb.

MS. CHAPMAN-PLUMB: Madam Parliamentarian, thank you so much for your assistance. I would like to make a motion to create a blank in Section 3 with regard to the number of Council members.

MR. HANNAH: There is a motion on the floor to create a blank. Is there a second?

DELEGATE: Second.

MR. HANNAH: There's a second. All those in favor, signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Opposed, "no."

DELEGATES: (No response)

MR. HANNAH: A blank has now been created in the Cherokee constitutional process. All right.

Now, for those of you who have been wondering what we're going to do with this blank, we are going to fill it. And so, therefore, Madam Parliamentarian, you will be at my left hand. And you will tell me what we would be accepting at this point would be a motion that would, in fact, have a number to put in that blank?

MS. LANGLEY: They don't have to make a motion. Just yell out a number.

MR. HANNAH: They can just simply yell out a number.

DELEGATE: Eight.

MR. HANNAH: Eight is down. How far do we go, until we're out of numbers?

MS. STARR-SCOTT: Fifteen.

MR. HANNAH: Fifteen is down.

MR. CLARKE: Eighteen.

MR. HANNAH: Eighteen is down.

DELEGATE: Twenty-one.

MR. HANNAH: Twenty-one is down. Hold it here. That would be a point of information from my good friend there. How do we stop this anyway? We don't. We do whatever they want to do. Somebody will yell "bingo" sooner or later.

MR. POTEETE: I move that the nomination of numbers cease --

DELEGATE: Twenty-four.

MR. HANNAH: I beg your pardon, sir?

MR. POTEETE: I move that the nomination of numbers cease and we proceed to vote on the four that are there.

DELEGATE: Twenty-four was mentioned.

MR. HANNAH: Twenty-four was mentioned?

DELEGATES: Yes.

MR. HANNAH: Then twenty-four will be added to the list. And the numbers from the Parliamentarian, which will be checked against those of my fellow officers, would be twenty-four, twenty-one, eighteen, fifteen, and eight.

And there is a motion on the floor to cease the numbering system for the blanks. Is there a second?

DELEGATE: Second.

MR. HANNAH: There's a second. All of those in favor, signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

DELEGATES: (No response)

MR. HANNAH: And the numbers have been selected.

Now, Madam Parliamentarian, we have numbers before us. And I'm assuming that our process would be to vote on each one of these numbers. Discuss, yes, you are very correct. We are here to discuss the numbers, all of them that are before us. And Delegate Mullon is recognized.

MR. MULLON: Thank you. I have a request for clarification, if I may. We are going to discuss the numbers, but the vote -- when we are selecting the number, will we be voting for the entire section?

MR. HANNAH: No, only the number.

MR. MULLON: We are only voting on the number. And the rest of the section --

MR. HANNAH: Fill in the blank.

MR. MULLON: And the rest of the section, when we say "yes" or "no" will not be affected by our vote?

MR. HEMBREE: On order.

MR. HANNAH: On order, Mr. Hembree.

MR. HEMBREE: Delegate Hembree, Greasy. It was my understanding that we would select a number of numbers and then discuss the body as a whole -- or discuss the Section 3 in its entirety with consideration of these numbers. And then after --

DELEGATES: No, no.

MR. HEMBREE: Okay.

MR. HANNAH: Delegate Hembree, you've been answered, my friend. You can tell that we're making good process, when the rest of the delegates are going to come and get you.

Delegate Cornsilk, you're recognized.

MR. CORNSILK: I threw out the number

twenty-one, and my reasoning being that I believe that it is imperative that we increase the number of representatives on the Council, but that the number twenty-four is both too large and also an even number, which would invite many ties, which would then invite all kinds of bickering. And so I think we need an odd number.

MR. HANNAH: Thank you, sir. Any other delegates rise to speak with regard to the numbers? And the good man -- Mr. Hathaway, the gentleman behind you has been recognized.

MR. RAPER: Mr. Chairman, this is Mark Raper, delegate. Can we go through a roll call, just say -- the name calls, holler out the number. Could that go that way to select the number we want?

MR. HANNAH: Mark, you've raised an interesting question. And I think -- now, ladies and gentlemen, stay with me. We're into some waters that we've not been into before as a group, so we're going to rely upon our Parliamentarian. Step forward and explain.

Mark, would you please have a seat, sir.

MS. LANGLEY: The normal way you vote on blanks is, you start with eight and ask who is in favor of that and we'll count. Five of them. Whatever the next one is. Fifteen. And we'll ask who's in favor of fifteen, we'll count those.

When we come to a majority, which a majority here is thirty-four if I remember right, whichever one gets a majority, that's the one that we'll accept. Unless you want to do it differently than that, that's the way it's normally done on blanks.

MR. HANNAH: But we're here at this point to accept debate on any number that is before us at this time. And we have heard from Mr. Cornsilk on the number twenty-one. And the kind lady from Houston is recognized.

MS. SCOTT: I would just like to ask, first of all, what if you don't get a majority. And, second of all, how do you tell that people don't vote twice.

MR. HANNAH: I'm sorry, people won't do what, ma'am?

MS. SCOTT: How can you keep people from voting twice?

MR. HANNAH: Ma'am, if need be, we will segregate the voters. Mr. Hathaway, you are recognized, sir.

MR. GUNTER: You get to vote on each number, right?

MS. LANGLEY: No. The one you want.

MR. HANNAH: And I will see to it, young lady, that if we, in fact, make it to this vote, that it will be done in a fair and judicious manner. Hopefully we will require everyone keeping their shoes on. Mr. Hathaway, you are recognized.

MR. HATHAWAY: Thank you, Mr. Chairman. I just told one of my neighbors, I didn't really have a dog in this hunt, so the exact number is not something that I think is as important to

me as what the number may entail.

I believe to have the most effective legislative body that we can, we have to ensure that the people who are elected have the resources to do their job. I do not believe that they are now -- from my knowledge, I may be wrong -- that they do not have the staff assistants of their own kind, as it should be.

Every legislative body in the world that I know of is served by professional assistants. And in many instances the problems of communication with the executive or the prime minister is completely eliminated by staff-to-staff information gathering and following of issues.

I think the larger the number gets -- I don't believe any of these are passing that threshold, but I think the larger the number gets, the more difficult it will be to find money to make whoever is our Council members as effective as they should be.

So I would just like to say, without making it a choice on the numbers, that we need to keep in mind that as we increase the number, which I think many people believe is appropriate, that we also need to understand and include in our recommendations that whatever the number is, that they be adequately staffed.

And I'm going to say the same thing with respect to the judiciary. To be able to do the job that they're elected to do, they need to have professional assistants. And I don't believe that is adequately provided now. And it may be short changed in all branches of the government. But that's something we've really got to keep in mind.

MR. HANNAH: Thank you, Mr. Hathaway. You are recognized, sir.

MR. DOWNING: Carl Downing. I would like to amend the number count by deletion of number eight.

MR. HANNAH: Parliamentarian.

MS. LANGLEY: Everybody just won't vote on it.

MR. HANNAH: Now, we're beginning to distrust the front table.

MR. DOWNING: May I speak a minute?

MR. HANNAH: Yes, sir, you may.

MR. DOWNING: My objective of this is to try to get us out of a mess. And by eliminating the numbers until we reach the one that we most -- that we want, I think that would be faster.

However, there isn't a second, so I don't have to -- you don't have to put up with it.

MR. HANNAH: There is a motion on the floor to delete number eight. Is there a second?

DELEGATE: Second.

MR. HANNAH: Is there debate? Hearing none --

DELEGATE: Call the question.

MR. HANNAH: The question is called. Thank you very much. And those in favor of deleting number eight, please signify by saying "aye".

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

DELEGATES: (No response)

MR. HANNAH: And number eight is no longer among the candidates to fill the blank. Remaining numbers, twenty-four, twenty-one, eighteen, and fifteen. The floor is open for debate. And Mr. Hoskin is identified.

MR. HOSKIN, JR.: Thank you, Mr. Chair. And Charles Hoskin, Jr., of Vinita. I will be echoing some of the things Mr. Hathaway talked about, about what representation, how we need to improve representation.

But I would go a little farther and endorse fifteen as an adequate number of Council members. I think the problems that a lot of us see with representation are political problems. And these are problems that can take -- can be over with in a period of time with aggressive representatives on the Council and with aggressive citizens that will go after and hold their representatives' feet to the fire.

These are political questions that, as a people, we will evolve and we will mature politically and we will get better. I think we shouldn't tinker with it in the Constitution. I think that we should spend more in the legislature with respect to staffing and information services and give these folks a chance to be good representatives and, just as a people, come together and be good citizens.

And that's all I will say.

MR. HANNAH: Thank you for commenting, sir. Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Ralph Keen, Jr., delegate. I wanted to point out, while you consider these numbers, one of the reasons that the Commission rested on the number twenty-four -- not specifically the number, but an enlarged Council, was also to facilitate the dropping of the quorum requirement to a simple majority, from a two-thirds to a simple majority.

Now, that would be facilitated by a large enough number, where you would still have an adequate number of representatives to conduct the business of the Nation. And it would also make great strides towards resolving some of the problems we have seen with the two-thirds quorum.

And so I just wanted to put that before the delegates for their consideration.

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

MR. HEMBREE: Thank you, Mr. Chairman. Delegate Hembree from Greasy.

Ladies and gentlemen, when this -- when the Constitution that we are revising now was created, I've heard the figures and I've written down that we had a tribal population of around forty thousand. I understand now that that figure has approached two hundred thousand.

It would only beg the question that if fifteen representatives were adequate for forty thousand, there should be some increase for two hundred thousand. But I'm also a firm believer that throwing people at this problem that now confronts the Nation is not going to work. I am in favor of a slight increase, but I do believe some sort of increase is in order. And that's all I have to say.

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

MR. SMITH: Yes, I would like to speak in favor of my friend, number eighteen. He's been a friend for many, many years. Why I suggest that, I would like to leave the door open for those three extra ones over our current fifteen, to be available for out of state.

And here's -- what we're heading for is a policy of exclusion versus inclusion. When we close our borders and act like we are a territorial government solely, we exclude many of our Cherokee people. We need to remind ourselves that we are not a government of territory, to speak of, anymore. We're a Nation of people.

And that Nation of people is a national cutlery location of between nineteen -- I have to tell a historical footnote. But between 1930 -- between 1930 and 1940, fifty percent of the Cherokee population in Oklahoma disappeared because of the depression.

That fifty percent population that disappeared from Oklahoma, those people showed up two-thirds in California and the other third in Texas.

So our expatriation was not necessarily by choice, but because of what we might call a second Trail of Tears after a loss of lands to allotments.

So we need to understand the needs of these people who are outside of the borders and make available at least three delegates for them.

MR. HANNAH: Thank you very much, sir. Frank, you are recognized.

MR. MacLEMORE: Frank MacLemore, delegate. I would speak against fifteen because I would see that as status quo, has been and has been ever since we've had that number. I would speak in favor of eighteen, namely because of the way it was presented. And I would emphatically again say that, don't leave us out, because we are a great number of people, we do have concerns, and we would like to support -- or I would like to support eighteen.

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

MR. GOURD: Mr. Chairman, in addition to the comments by Delegate Keen, I would like to add that the number of twenty-four that we considered also included the provisions for staggering of the terms of the Council.

So it's a number that finally fit the rotation. So that's -- we're not mathematicians, so that was another issue that

we had to come up against, whether it be an odd number or even number. But with having the Speaker and the separation of division there, but in order to get a staggering of terms, so that the Chief, Deputy Chief, and the entire Council are not all up for election at the same time.

So in consideration of the number, the way the system worked for staggering, is why we arrived at twenty-four. Thank you.

MR. HANNAH: Thank you, Mr. Gourd. Starr-Scott.

MS. STARR-SCOTT: Starr-Scott from Oochey.

MR. HANNAH: Thank you, ma'am.

MS. STARR-SCOTT: I would again caution this body. As I said previously, our Constitution has served us well. And I think one of the reasons it has, is that our Constitution is simple. I maintain that a fifth grader can read it and understand it.

The number fifteen, I feel like, has been a good number to work with. I have worked with the Creeks who have a large Council. I've work with other tribes who have a large Council, or Councils. And I have seen a lot of strife and discord in those.

And I know that some of you want to correct the problem of the past two years. Some of you don't degree with the boycott. Some of you don't agree with the Chief and the eight. But enlarging this Council is not going to be the answer.

You're going to -- instead of having two factions, you'll have four or you may have six. Instead of that, I think the best thing that you could do is increase the staff assistants to the Council and give them a full-time position, because I think it deserves a full-time position.

I think if you have more elected officials that are simply part-time, the people are not going to be any more represented.

I also look to the cost of it. And I know everyone says, well, gee, the Tribe has millions of dollars. We have dwindling dollars, and I fight that every day. Every year that I've been on this Council, I have tried to cut back because, of the hundred and fifty million, do you know how much get to the people? Not very many.

And if you people could travel with me just a few days and see what I see in my communities. I have people that don't have water. That don't have facilities. They don't enjoy what you enjoy. And I strive every day to get more services to those people.

MR. HANNAH: Thank you. The kind delegate from Houston is recognized.

MS. SCOTT: Deborah Scott, Houston. I would like to just bring before the body that enlarging or expanding the delegates is not about resolving the problems of the past two years. It's about addressing the growing needs of a population.

It would be before this body, whether or not we've had the last two years of history. So we need to not make that the barometer of what we're making this decision about. This decision

is about, we have a growing number of people that we need to address and tend to and hear their voices too.

And can that adequately be addressed by fifteen people? I don't think so. And I don't think it should be a scary thing to think that we have a few more people helping us here, a lot more people out there.

So I would encourage us not to consider the last two years as the reason we need more people. That's not the reason.

MR. HANNAH: Delegate Chapman-Plumb, you're recognized.

MS. CHAPMAN-PLUMB: I concur with the gentle lady from Texas, I believe it is.

MR. HANNAH: From Houston, Texas.

MS. CHAPMAN-PLUMB: From Houston. I would rise in support of the number twenty-one, and I would just like to say that I don't believe that there's any magic in -- necessarily any magic in enlarging the number.

However, I have friends on both sides of the Council, and I think anybody that has been around me over the last two years would know that I really don't have a side in this issue. And I do believe that we can decide on these things apolitically.

However, when I hear people talk of four or six division on the Council as opposed to two, that makes me feel better. I would rather have four or six division on the Council as opposed to two, because we would not have the gridlock that we now have.

MR. HANNAH: Thank you. Please help me here, gentlemen. You'll be on your own recognizance. Who stood first here? Mr. Scott, you are recognized.

MR. SCOTT: Thank you, I'm Scott from Tulsa. I was going to say what has already been said, that this discussion of numbers has nothing, in my mind, and I think the great majority, with what has been going on for the last two years. That's behind me. I'm looking down the road for the next however long this thing stays in effect.

But something else I wanted to mention, that talk about having an even number or odd number so it would be for a tie. I would like to say, down the road that we should stay with the majority and not do the simple majority because I think we need more consensus built within our actions here. And just a simple majority plus one, or whatever it takes, is not enough to build a strong tribe with.

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

MR. CLARKE: William Clarke, delegate from Muskogee. I stated the number eighteen because that was the number that I mentioned earlier in my friendly motion. And the reason for that is not to try and to fix the things that's been going on for the last two years, because I realize that I myself, as an employee of the Nation, in the position that I hold, I have to work with the Council, and I feel like I do a pretty good job of working with

those Council members, regardless of which side they choose to take.

My purpose is, hoping that at some point in time before we end this convention, that we will have three Council members to represent those of us who reside outside the boundaries.

MR. HANNAH: Thank you very much, sir. The delegate from Webbers Falls is recognized.

MR. POTEETE: Yes, in the south of the Cherokee Nation. I'm going to speak again to the number fifteen. I'll say that whatever number we choose does not preclude the staggering of terms. I have advocated for that consistently in my eight years now in the Council. I got no support from that from my Council mates, but I still think it's a good idea and now would be the time to implement it in some fashion.

The number fifteen does not preclude having a representative designated for the people who are outside the boundaries. I would like to say that the people who live outside the boundaries contiguous to the Cherokee Nation or even anywhere nearby, pick out a district where they are registered.

I represent many people in Muskogee County. I'm Mr. Clarke's representative. I represent dozens, hundreds of people who live outside the boundaries, and I'm their Councilman and they call me and I do my best to take care of them.

Throwing more people at this problem will give us some of the problems that have caused us to look toward the Creeks and say, golly, I'm glad we don't have that kind of carrying on.

And until the last two years, we haven't had that kind of carrying on. I don't think expanding the Council and further spreading our resources is going to help the problem. What will help it is to equip the people who are in Council to do a better job.

And we will not be able to achieve that; we will have more people inadequately funded to do the job that they're elected to do if we go to a larger number.

And I will remind you that when the Council gave itself a modest pay increase, there was a huge public outcry against that. And I think that if we expand this past fifteen, it will never make it past the electorate on the ballot. And we need to think about that also.

I urge you to -- not to throw more people at the problem, which will make it harder to gain a consensus. Thank you.

MR. HANNAH: Thank you, Mr. Poteete. Chairman's note for the historic record that after two hundred years, we still continue to slur the Creeks. Thank you for bringing that up. Horseshoe Bend all over again.

The gentleman from Muskogee is recognized.

MR. McDANIEL: Mr. Chairman, the words you're taking down now, is it going to be inserted in different parts of the Constitution? It's not too late to add anything?

MR. HANNAH: If your question is, too late to add anything to other sections, the answer would be no. With regard

to the question of after the vote of filling in the blank of the number, the number will be set and where it would appear anywhere else in the Constitution, that number would appear.

MR. McDANIEL: My idea doesn't really pertain to the number, but I would like to see you put in the wording in the Councilor's paragraph, all Council members should be required to vote either "yes" or "no."

MR. HANNAH: Calvin, I will ask -- that is a very good thought, and I would ask that you hold that for when we reach that section of debate. Right now we are debating on the actual number that should fill the blank. Mr. Mullon, you are recognized.

MR. MULLON: Thank you, Mr. Chairman. Delegate David Mullon. I'm rising -- I'm actually kind of having to lean over here. Smart Cherokee.

MR. HANNAH: You do hold dual citizenship. Are you not a Creek as well?

MR. MULLON: No, I'm not.

MR. HANNAH: Chair wished to clarify.

MR. MULLON: I do work for the Creeks and, I must say, proudly. They are a great people.

I'm an advocate of the number fifteen. I think the number fifteen has served us well. I do not think that considerations of the past two years should have anything to do with the possibility of enlarging or even changing the number anyway.

And I would point out that that is and has been advocated as one of the reasons for increasing the number. The increase in the number, I have not -- people have said that by increasing the number that there will be less chance of gridlock; but no one has explained to me how that is going to decrease gridlock.

I also would like to point out one thing. I could go over many things that other people have, and there's no reason for that, but I would suggest that this is a very, very sensitive issue with a lot of the Cherokee people and that there are a lot of people who are very, very adamant about the number fifteen.

There are a lot of Cherokee people who are very concerned about the increase in the cost of running our government and paying our Council members.

Increasing, to me, increasing the number endangers -- if they vote against this article, they'll be voting against the entire Constitution. Thank you.

MR. HANNAH: Thank you, sir.

MR. DOWTY: Move the previous question.

MR. HANNAH: Move the previous question. Is there a second?

DELEGATE: Second.

MR. HANNAH: And there is. So now we are about the business of -- the previous question was what? Someone help the Chair.

DELEGATE: Vote for the blank number.

MR. HANNAH: The Chair looks to the Parliamentarian for point of clarification. Have you not had a correction in your research, Parliamentarian?

MS. LANGLEY: Yes. Mr. Keen corrected me. Each one is a separate vote, so you can vote for more than one. We'll work our way up.

MR. HANNAH: Okay.

MR. DONN BAKER: Point of order.

MR. HANNAH: Mr. Baker, point of order.

MR. DONN BAKER: When did we decide to do it this most unusual way that the Parliamentarian has suggested? I mean, she indicated that we do these numbers sometimes when we need to get to the numbers.

This is probably one of the most important areas that we are going to be talking about. And it would appear to me that we ought to move to strike those and get one number and everybody light one place or the other, rather than -- it just seems a very awkward way for me to do it.

MR. HANNAH: Thank you, Mr. Baker. You're recognized, sir.

MR. CROUCH: Mr. Crouch from Sacramento, delegate. Since fifteen is the existing number and since we've now been told that the rule is that we will vote everyone on one number, and if that doesn't get -- I don't understand how that would work. If it doesn't get a majority, then everyone on the second number.

MR. HANNAH: The Chair would ask Mr. Keen to refer to your reference book.

MR. CROUCH: In which case I'm just suggesting let's start at twenty-four because it's not the known number.

MR. CORNSILK: Point of information.

MR. HANNAH: Yes, sir.

MR. CORNSILK: Did we not decide earlier that provisions in the Constitution of 1975 are there already and that we would not vote on those; we would simply vote for amendments. And so we don't even need to vote on fifteen. All we vote on is the others; and if they all fail, then fifteen is left.

MR. HANNAH: Mr. Keen raises that the number fifteen has been raised in the context of the amendment. So, therefore, while fifteen is fifteen, fifteen is different in this regard.

MR. CORNSILK: Then I'm getting jiggy with it.

MR. HANNAH: Kind lady from California.

MS. MASTERS: I move that we eliminate number twenty-four.

MR. HANNAH: I will tell you that you're out of order. Ladies and gentlemen, where we are, let's just take a moment and all take a deep breath and see where we are in this process.

We are looking at the filling of a blank. And that blank is with regard to the number of Councilmen that will represent our Nation. And we have generated numbers ranging from twenty-four,

twenty-one, eighteen, and fifteen.

We have had debate and we have closed debate, and we are now about the process of deciding. And the delegates should, in fact -- and I will entertain and, therefore, I apologize for calling you out of order, although I felt the urge at that moment.

MS. JORDAN: Point of information.

MR. HANNAH: Yes, ma'am.

MS. JORDAN: Didn't we let somebody make a motion to withdraw number eight?

MR. HANNAH: And the Chair would finish his sentence by saying that if that is the inclination of the delegates to continue this process by moving to delete, then I would accept a motion for such.

MS. JORDAN: I second Ms. Masters' motion to delete number twenty-four then.

MR. HANNAH: Okay. There is a motion on the floor to delete number twenty-four. It has been seconded. Is there a debate? Opposition, hearing none. All of those in favor of the deletion of the number twenty-four, please signify by saying "aye."

DELEGATES: Aye.

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

DELEGATES: No.

MR. HANNAH: Number twenty-four is deleted.

What is the pleasure of the delegates with the remaining numbers of twenty-one, eighteen, and fifteen? Mr. Hembree, you are recognized.

MR. HEMBREE: Mr. Chairman, I call the question on the remaining numbers.

MR. HANNAH: Mr. Hembree.

MR. DONN BAKER: Mr. Chairman.

MR. HANNAH: Mr. Baker.

MR. DONN BAKER: I move to strike twenty-one.

MR. HANNAH: There is a motion on the floor to strike twenty-one. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. All of those in favor of striking number twenty-one, please signify by saying "aye".

DELEGATES: Aye.

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

DELEGATES: No.

MR. HANNAH: And the Chair says too close to call. Therefore, we have a motion to strike the number twenty-one.

And, Mr. Secretary, I would propose that we implement a voting method.

MS. STARR-SCOTT: Roll call vote. Since it didn't pass, why don't we keep it included in the three under consideration.

MR. HANNAH: We don't know if it passed or not.

The Chair has declared that it was too close of a call, and there has been a call for roll call vote privilege and we will meet that.

Therefore, Mr. Secretary, if you will prepare to take

roll call. And for those of you who were here earlier today for our other roll call vote, you will be impressed that we are about to do a roll call electronically, just like they do in the big town.

And Delegate Viles is to take a bow at this time. Are you still awake and out there? And there he is, and thank you very much, sir. What he lacks in legal knowledge, he makes up in computer knowledge.

Mr. Secretary.

MR. UNDERWOOD: Adair.

MR. HANNAH: The question is, there is a motion on the floor to strike the number twenty-four from the list of numbers.

DELEGATES: Twenty-one.

MR. HANNAH: Thank you very much. I was testing you. The motion is on the floor to strike the number twenty-one. And it has been seconded and the Secretary will call the roll.

MR. ROBINSON: Point of information.

MR. HANNAH: Okay. Point of information.

MR. ROBINSON: I'm not sure if I'm rising. I just feel that somebody needs to say, on this motion, if you vote "yes," that means the number is gone. If you vote "no," the number stays there.

MR. HANNAH: That is correct. We are voting to delete number twenty-one. If you vote "yes," twenty-one is gone. If you vote "no," twenty-one stays.

MR. HEMBREE: Point of information.

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

MR. HEMBREE: Should the "yeses" have won?

MR. HANNAH: Well, we thought it would be better to start out. It kind of gives us a little momentum that way, Mr. Hembree. If you will bear with us, and we thank you for pointing that out. The Scribe will make a small correction. Now, delegates, you all need to remember that this is a historic moment for us and this is the first electronic balloting of this Nation in its entire history.

Mr. Viles.

MR. VILES, JR.: I'm told we have seventy-seven registered, so that number ought to go up.

MR. HANNAH: All right. Technical advisor Viles, do you feel that we're prepared?

MR. VILES, JR.: I think so. Maybe at the end we'll have to ask our credentials man how many total are registered and what is the majority. But we're ready to vote, yes.

MR. HANNAH: Mr. Secretary, if you will call roll.

MR. UNDERWOOD: Adair.

MS. ADAIR: Yes.

MR. UNDERWOOD: Alberty.

MR. ALBERTY: No.

MR. UNDERWOOD: Bill Baker.

MR. BILL BAKER: No.  
MR. UNDERWOOD: Donn Baker.  
MR. DONN BAKER: Yes.  
MR. UNDERWOOD: Jack Baker.  
MR. JACK BAKER: Yes.  
MR. UNDERWOOD: Berry.  
MS. BERRY: Yes.  
MR. UNDERWOOD: Birmingham.  
MS. BIRMINGHAM: Yes.  
MR. UNDERWOOD: Burnett.  
MS. BURNETT: Yes.  
MR. UNDERWOOD: Center.  
MR. CENTER: Yes.  
MR. UNDERWOOD: Chilson.  
MS. CHILSON: No.  
MR. UNDERWOOD: Clarke.  
MR. CLARKE: Yes.  
MR. UNDERWOOD: Colson.  
MS. COLSON: No.  
MR. UNDERWOOD: Coon.  
MS. COON: Yes.  
MR. UNDERWOOD: Cornsilk.  
MR. CORNSILK: No.  
MR. UNDERWOOD: Crawford.  
MS. CRAWFORD: Yes.  
MR. UNDERWOOD: Crittenden, Don.  
MR. DON CRITTENDEN: Yes.  
MR. UNDERWOOD: Crittenden, H.  
MR. H. CRITTENDEN: Yes.  
MR. UNDERWOOD: Crouch.  
MR. CROUCH: Yes.  
MR. UNDERWOOD: Bill Davis.  
MR. BILL DAVIS: Yes.  
MR. UNDERWOOD: Earl Davis. Bryce Downing.

Carl Downing.

MR. DOWNING: No.  
MR. UNDERWOOD: Dowty.  
MR. DOWTY: Yes.  
MR. UNDERWOOD: Foster.  
MS. FOSTER: No.  
MR. UNDERWOOD: Gourd.  
MR. GOURD: No.  
MR. UNDERWOOD: Gunter.  
MR. GUNTER: Yes.  
MR. UNDERWOOD: Hagerstrand.  
MS. HAGERSTRAND: Yes.  
MR. UNDERWOOD: Hammons. Hannah.  
MR. HANNAH: Abstain.  
MR. UNDERWOOD: Herod.  
MR. HEROD: Yes.

MR. UNDERWOOD: Hathaway.  
MR. HATHAWAY: Pass.  
MR. UNDERWOOD: Havens.  
MS. HAVENS: Yes.  
MR. UNDERWOOD: Hembree.  
MR. HEMBREE: No.  
MR. UNDERWOOD: Hook.  
MR. HOOK: No.  
MR. UNDERWOOD: Hoskin, C., Jr.  
MR. HOSKIN, JR.: Yes.  
MR. UNDERWOOD: Hoskin, C., Sr.  
MR. HOSKIN, SR.: Yes.  
MR. UNDERWOOD: Johnson.  
MR. JOHNSON: Yes.  
MR. UNDERWOOD: Jordan.  
MS. JORDAN: Yes.  
MR. UNDERWOOD: J. Keen.  
MR. JOHN KEEN: No.  
MR. UNDERWOOD: Ralph Keen, Jr.  
MR. KEEN, JR.: No.  
MR. UNDERWOOD: Ralph Keen, Sr. Lay.  
MR. LAY: Yes.  
MR. UNDERWOOD: Littlejohn.  
MR. LITTLEJOHN: Yes.  
MR. UNDERWOOD: Linnenkohl.  
MS. LINNENKOHL: No.  
MR. UNDERWOOD: Masters.  
MS. MASTERS: No.  
MR. UNDERWOOD: McDaniel.  
MR. McDANIEL: Yes.  
MR. UNDERWOOD: McIntosh.  
MS. McINTOSH: Yes.  
MR. UNDERWOOD: McCreary.  
MR. McCREARY: No.  
MR. UNDERWOOD: MacLemore.  
MR. MacLEMORE: No.  
MR. UNDERWOOD: Melton.  
MR. MELTON: Yes.  
MR. UNDERWOOD: Meredith.  
MS. MEREDITH: Yes.  
MR. UNDERWOOD: Miller.  
MS. MILLER: No.  
MR. UNDERWOOD: Moore.  
MR. MOORE: No.  
MR. UNDERWOOD: Mullon.  
MR. MULLON: Yes.  
MR. UNDERWOOD: Phillips.  
DELEGATES: Peacock.  
MR. UNDERWOOD: He wasn't on our list to begin  
with, but I have him added at the bottom. I'm sorry. Phillips.

MR. HANNAH: Ladies and gentlemen, earlier Delegate Peacock was not on the roll call vote. He was added in handwriting to the Secretary's list, but it has been transcribed on the computer in alphabetical order; is that correct? So I would direct the Secretary to seek the vote of Delegate Peacock, to keep this in sequence.

MR. PEACOCK: No.

MR. UNDERWOOD: That's Peacock's vote.

Phillips. Pitts.

MS. PITTS: Yes.

MR. UNDERWOOD: Plumb.

MS. CHAPMAN-PLUMB: Pass.

MR. UNDERWOOD: Poteete.

MR. POTEETE: Yes.

MR. UNDERWOOD: Raper.

MR. RAPER: No.

MR. UNDERWOOD: Rider.

MR. RIDER: Yes.

MS. CHAPMAN-PLUMB: Point of order.

MR. HANNAH: Point of order.

MS. CHAPMAN-PLUMB: I just want to make sure I was recorded as "pass."

MR. UNDERWOOD: You're recorded as abstain, yes.

MR. HANNAH: You are in the "abstain" category.

MS. CHAPMAN-PLUMB: Just making sure.

MR. HANNAH: Please continue, Mr. Secretary.

MR. UNDERWOOD: Raper. Rider.

MR. RIDER: Yes.

MR. UNDERWOOD: Robinson.

MR. ROBINSON: Yes.

MR. UNDERWOOD: Rutledge.

MR. RUTLEDGE: Yes.

MR. UNDERWOOD: Sanders. Barbara Scott.

MS. STARR-SCOTT: Yes.

MR. UNDERWOOD: D. Scott.

MS. SCOTT: No.

MR. UNDERWOOD: Owen Scott.

MR. SCOTT: Yes.

MR. UNDERWOOD: M. Silversmith.

MS. SILVERSMITH: No.

MR. UNDERWOOD: R. Silversmith.

MR. SILVERSMITH: No.

MR. UNDERWOOD: Smith.

MR. SMITH: Yes.

MR. UNDERWOOD: Spencer.

MR. SPENCER: No.

MR. UNDERWOOD: Starr. Stopp. Stroud.

MS. STROUD: Yes.

MR. UNDERWOOD: Twining.

MS. TWINING: No.

MR. UNDERWOOD: Underwood. Yes. Viles.

MR. VILES: Yes.

MR. UNDERWOOD: Wheeler.

MR. WHEELER: Yes.

MR. UNDERWOOD: Whitfield.

MR. WHITFIELD: Yes.

MR. UNDERWOOD: Wilson.

MR. WILSON: Yes.

MR. HANNAH: Mr. Secretary, the tabulation is before us then. We have forty-four in favor of the motion to strike the number twenty-one, twenty-five voting no. The motion carries. Twenty-one is deleted.

What would be the pleasure of delegates with the remaining numbers of eighteen and fifteen? Mr. Mullon, you're recognized, sir.

MR. MULLON: Mr. Chairman, I would move that we strike the number eighteen.

DELEGATE: Second.

MR. HANNAH: There is a motion on the floor to strike the number eighteen and it has been seconded. All of those in favor of striking the number eighteen, please signify by saying "aye."

DELEGATES: Aye.

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

DELEGATES: No.

MR. HANNAH: And the Chair has declared that I cannot declare that count. What would be the pleasure of the delegates?

MR. JOHN KEEN: Roll call vote.

MR. HANNAH: We realize that the delegates really just want to see the computer program again.

MS. MEREDITH: Could you restate the motion, as you did before, so we can understand what a "yes" vote does and what a "no" vote does?

MR. HANNAH: The good lady from Oklahoma City asks that the Chair take care in explaining exactly what this next vote will do. There's a motion on the floor to strike the number eighteen from our pool of numbers.

And so, therefore, by voting "yes," the number eighteen will be removed. And by voting "no," the number eighteen will remain. Mr. Baker.

MR. DONN BAKER: I stand in favor of striking eighteen and would remind everybody that, while I do not think that the last two years should have any effect on it. Nine and nine is eighteen, and I think we're way better off with fifteen as opposed to eighteen. And I think we need to consider that when we vote.

MR. HANNAH: Mr. Baker, thank you for your mathematics. Mr. Keen.

MR. DONN BAKER: The divorce lawyer.

MR. HANNAH: I forgot the good delegate had

already been identified.

MR. JOHN KEEN: Point of order.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: I was asking if the floor was open for debate.

MR. HANNAH: Apparently it is, thank you.

MR. JOHN KEEN: If we're to debate nine and nine is eighteen, and even numbers and odd numbers, then we wasted a lot of times on the tie breaking votes article. Just want to submit that to you.

MR. HANNAH: Thank you, Mr. Keen. Mr. Hathaway, you are recognized, sir.

MR. HATHAWAY: Mr. Chairman, if it's in order, I would like to propose an amendment to the number eighteen for it to read seventeen.

MR. HANNAH: There is an amendment on the floor, albeit unique in nature. And one moment here, I'm going to read the motion. We'll get to your second, mostly likely. There is a motion on the floor to amend the number eighteen to seventeen. Is there a second?

MR. HEMBREE: Point of order.

MR. HANNAH: Mr. Hembree.

MR. HEMBREE: Of course, I don't -- Hembree, delegate. Of course, I don't tend to know everything about parliamentary procedure, but I could have sworn that we had a time in which all numbers were to be shouted out from the floor, and we moved that and we closed that and we discussed this all along.

And I don't believe that -- there was a pending motion on the floor at this time we're going into roll call vote, and I don't believe that an amendment to that is --

MR. HANNAH: Mr. Hembree, you are correct, sir, and the Chair is corrected and the motion will not be recognized. Mr. Littlejohn.

MR. LITTLEJOHN: Point of order. Didn't the last vote that we had, it said like thirty-nine is the majority. But I noticed that everybody -- there was not seventy-seven votes cast.

And is it not correct that a majority will be the majority of the votes cast, not the majority of the registered delegates?

MR. HANNAH: Thank you, Mr. Littlejohn, for pointing this out. We believe that we may have once again a small Scribner's error here. And, Mr. Keen, would you give us an explanation of the scribe?

MR. KEEN, JR.: The number seventy-seven were the number of delegates registered this morning. Obviously, unless we got a head count before we took the vote, we could not enter it into the machine. So for those reasons we're going to leave those boxes blank and we will just determine the majority at the close of the vote.

MR. HANNAH: The good lady from Park Hill is recognized.

MS. CHAPMAN-PLUMB: I would just like to point out that whenever we are voting to eliminate the number eighteen, by default the number will be fifteen. I just want to make that absolutely clear.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: I really wasn't completely clear on your answer to Mr. Littlejohn, and I didn't quite hear what you said.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Again, that mike over there has something against my voice; it just simply will not pick it up.

When this was set up over the lunch hour, I might add, by Justice Viles and our honorary delegate, they set up the boxes at the top just for informational purposes. The only numbers available at the time were the number of delegates that were registered this morning, which was seventy-seven.

And so, because of that, and because we don't know how many will actually vote in this upcoming vote, we're just going to leave those boxes blank and we'll determine the majority upon completion of the vote.

Does that adequately respond to your question?

MR. CORNSILK: That does. I have a point of information.

MR. HANNAH: Yes, sir.

MR. CORNSILK: I think we went through this one time with the Council, that a majority is not a majority of the persons present. But a majority is a majority of the persons who are members of the body. And does that not mean that we have seventy-nine people, so a majority vote would be fifty-one percent of seventy-nine people?

MR. HANNAH: Parliamentarian, would you please address this? The good doctor.

MR. ROBINSON: Not to dispute Mr. Cornsilk, but that is true, it happened in the Council. My concern, whether it's legal or not, is the fact that simply by five people who did not come back after supper, for whatever reasons and that's their business, that essentially if we do go by the seventy-nine -- and I think the next two votes might be pretty close -- is essentially, the "no" voters start out with five "no" votes. And I just take exception to that. I don't think it's fair.

MR. KEEN, JR.: We're not going by seventy-nine.

MR. ROBINSON: I mean seventy-seven.

MR. KEEN, JR.: We're not going by seventy-seven either.

MR. ROBINSON: But five people are missing now.

So if we go by seventy-seven, in other words, thirty-nine people have to vote "yes," there's already five votes "no."

MR. KEEN, JR.: Obviously I did not make myself

clear. We're not going to use any number until the vote is completed; then the majority of the voting members will determine whether or not it passes.

MR. ROBINSON: I agree with what you're saying, I was disputing somewhat what Mr. Cornsilk said.

MR. CORNSILK: Point of information.

MR. HANNAH: Mr. Keen is recognized.

MR. JOHN KEEN: Mr. Chairman, are you going to take that position as a privilege of the Chair or can I make a motion to the body that we accept the majority of the votes cast?

MR. HANNAH: That is a motion that you have before us at this time?

MR. JOHN KEEN: Yes, sir.

MR. HANNAH: And your motion once again? Restate it so that everyone is very clear.

MR. JOHN KEEN: John Keen, delegate. I make a motion that we accept the majority of the votes cast as our ruling factor here.

MR. HANNAH: Is there a second?

DELEGATE: Second.

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

DELEGATES: Aye.

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

DELEGATES: (No response)

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

MS. MASTERS: Just a point of personal privilege here. Billie Masters, delegate. And I guess this is probably for Deborah probably too. But as long as you have a quorum present, then a simple majority works. Isn't that the way Robert's is written?

MS. LANGLEY: True.

MS. MASTERS: And we have a quorum. And so a simple majority is all that we needed, isn't it, according to our rules?

MR. HANNAH: We just reiterated that. Okay. We have confused the Chair. We're voting on eighteen. This is a vote to exclude the number eighteen from the pool. And -- the Chair declared that I could not declare --

MR. SCOTT: Information.

MR. HANNAH: Yes, sir, Mr. Scott.

MR. SCOTT: Is it technically feasible when they call the roll call vote, you can vote which number you prefer of the two remaining ones?

MR. HANNAH: No, sir. Okay. What is the pleasure of the delegates with regard to the vote to strike the number eighteen?

DELEGATES: Roll call vote.

MR. HANNAH: Roll call vote. Mr. Secretary. Once again, folks, motion is on the floor to delete the number

eighteen. By voting "yes," the number eighteen will be removed; by voting "no," it will remain. Mr. Secretary, call the roll.

MR. UNDERWOOD: Adair.  
MS. ADAIR: Yes.  
MR. UNDERWOOD: Alberty.  
MR. ALBERTY: No.  
MR. UNDERWOOD: Bill Baker.  
MR. BILL BAKER: No.  
MR. UNDERWOOD: Donn Baker.  
MR. DONN BAKER: Yes.  
MR. UNDERWOOD: Jack Baker.  
MR. JACK BAKER: Yes.  
MR. UNDERWOOD: Berry.  
MS. BERRY: No.  
MR. UNDERWOOD: Birmingham.  
MS. BIRMINGHAM: Yes.  
MR. UNDERWOOD: Burnett.  
MS. BURNETT: Yes.  
MR. UNDERWOOD: Center.  
MR. CENTER: Yes.  
MR. UNDERWOOD: Chilson.  
MS. CHILSON: No.  
MR. UNDERWOOD: Clarke.  
MR. CLARKE: No.  
MR. UNDERWOOD: Colson.  
MS. COLSON: No.  
MR. UNDERWOOD: Coon.  
MS. COON: No.  
MR. UNDERWOOD: Cornsilk.  
MR. CORNSILK: Yes.  
MR. UNDERWOOD: Crawford.  
MS. CRAWFORD: No.  
MR. UNDERWOOD: Crittenden, Don.  
MR. DON CRITTENDEN: Yes.  
MR. UNDERWOOD: Crittenden, H.  
MR. H. CRITTENDEN: Yes.  
MR. UNDERWOOD: Crouch.  
MR. CROUCH: Yes.  
MR. UNDERWOOD: Bill Davis.  
MR. BILL DAVIS: Yes.  
MR. UNDERWOOD: Earl Davis. Bryce Downing.

Carl Downing.

MR. DOWNING: No.  
MR. UNDERWOOD: Dowty.  
MR. DOWTY: Yes.  
MR. UNDERWOOD: Foster.  
MS. FOSTER: No.  
MR. UNDERWOOD: Gourd.  
MR. GOURD: No.  
MR. UNDERWOOD: Gunter.

MR. GUNTER: No.  
MR. UNDERWOOD: Hagerstrand.  
MS. HAGERSTRAND: Yes.  
MR. UNDERWOOD: Hammons. Hannah.  
MR. HANNAH: Abstain.  
MR. UNDERWOOD: Herod.  
MR. HEROD: Yes.  
MR. UNDERWOOD: Hathaway.  
MR. HATHAWAY: Pass.  
MR. UNDERWOOD: Havens.  
MS. HAVENS: No.  
MR. UNDERWOOD: Hembree.  
MR. HEMBREE: No.  
MR. UNDERWOOD: Hook.  
MR. HOOK: No.  
MR. UNDERWOOD: Hoskin, C., Jr.  
MR. HOSKIN, JR.: Yes.  
MR. UNDERWOOD: Hoskin, C., Sr.  
MR. HOSKIN, SR.: Yes.  
MR. UNDERWOOD: Johnson.  
MR. JOHNSON: Yes.  
MR. UNDERWOOD: Jordan.  
MS. JORDAN: Yes.  
MR. UNDERWOOD: J. Keen.  
MR. JOHN KEEN: No.  
MR. UNDERWOOD: Ralph Keen, Jr.  
MR. KEEN, JR.: No.  
MR. UNDERWOOD: Ralph Keen, Sr. Lay.  
MR. LAY: Yes.  
MR. UNDERWOOD: Littlejohn.  
MR. LITTLEJOHN: No.  
MR. UNDERWOOD: Linnenkohl.  
MS. LINNENKOHL: No.  
MR. UNDERWOOD: Masters.  
MS. MASTERS: No.  
MR. UNDERWOOD: McDaniel.  
MR. McDANIEL: Yes.  
MR. UNDERWOOD: McIntosh.  
MS. McINTOSH: Yes.  
MR. UNDERWOOD: McCreary.  
MR. McCREARY: No.  
MR. UNDERWOOD: MacLemore.  
MR. MacLEMORE: No.  
MR. UNDERWOOD: Melton.  
MR. MELTON: Yes.  
MR. UNDERWOOD: Meredith.  
MS. MEREDITH: Yes.  
MR. UNDERWOOD: Miller.  
MS. MILLER: No.  
MR. UNDERWOOD: Moore.

MR. MOORE: No.  
MR. UNDERWOOD: Mullon.  
MR. MULLON: Yes.  
MR. UNDERWOOD: Peacock.  
MR. PEACOCK: Yes.  
MR. UNDERWOOD: Phillips. Pitts.  
MS. PITTS: Yes -- no.  
MR. UNDERWOOD: Plumb.  
MS. PLUMB: Pass.  
MR. UNDERWOOD: Poteete.  
MR. POTEETE: Yes.  
MR. UNDERWOOD: Raper.  
MR. RAPER: No.  
MR. UNDERWOOD: Rider.  
MR. RIDER: Yes.  
MR. UNDERWOOD: Robinson.  
MR. ROBINSON: Yes.  
MR. UNDERWOOD: Rutledge.  
MR. RUTLEDGE: No.  
MR. UNDERWOOD: Sanders. Barbara Scott.  
MS. STARR-SCOTT: Yes.  
MR. UNDERWOOD: D. Scott.  
MS. SCOTT: No.  
MR. UNDERWOOD: Owen Scott.  
MR. SCOTT: No.  
MR. UNDERWOOD: M. Silversmith.  
MS. SILVERSMITH: No.  
MR. UNDERWOOD: R. Silversmith.  
MR. SILVERSMITH: No.  
MR. UNDERWOOD: Smith.  
MR. SMITH: No.  
MR. UNDERWOOD: Spencer.  
MR. SPENCER: No.  
MR. UNDERWOOD: Starr. Stopp. Stroud.  
MS. STROUD: Yes.  
MR. UNDERWOOD: Twining.  
MS. TWINING: Yes.  
MR. UNDERWOOD: Underwood. No. Viles.  
MR. VILES, JR.: No.  
MR. UNDERWOOD: Wheeler.  
MR. WHEELER: No.  
MR. UNDERWOOD: Whitfield.  
MR. WHITFIELD: Yes.  
MR. UNDERWOOD: Wilson.  
MR. WILSON: Yes.

MR. HANNAH: Mr. Secretary, results of the vote.  
Thirty-three, yes; thirty-seven, no; two abstaining. Motion fails.  
Therefore, the number remains eighteen and fifteen in the pool.  
The kind lady from Texas in red is recognized.

MS. MILLER: I move to strike the number

fifteen.

DELEGATE: Second.

MR. HANNAH: Motion on the floor to strike the number fifteen. And there is a second. Mr. Cornsilk.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: Delegate Cornsilk. I would strongly encourage this body to reject the number eighteen. It's an even number, it's just inviting disaster.

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

MR. SMITH: Two-thirds of eighteen is twelve. So we can maintain the two-thirds majority and still function as a Council.

MR. HANNAH: Mr. Hathaway.

MR. HATHAWAY: I still believe substituting seventeen for eighteen would be a good idea.

MR. HANNAH: Mr. Hathaway's theory on numbers continues much to the chagrin of the Arabic faith who brought them to us.

MR. CROUCH: Mr. Speaker, I would move that we strike the number fifteen by unanimous consent in deference to the previous vote.

DELEGATE: Second.

DELEGATE: Objection.

MR. HANNAH: There is a motion on the floor to strike the number fifteen by unanimous consent.

MR. HEMBREE: There is an objection on the floor.

MR. HANNAH: Thank you very much, sir. I was unfortunately listening one at a time. We are back to open for debate with regard to the motion on the floor to strike the number fifteen.

MR. JOHN KEEN: Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: John Keen, delegate. I'd like to support Mr. Hathaway but I know I can't. My respect for you is growing every time you stand up, Mr. Hathaway.

As I said before, we did spend time in what I think is in doing a good thing. We have a provision for breaking a tie vote. And if need be, we'll utilize that. But eighteen is better than fifteen, in my opinion.

MR. DOWNING: Move the previous question.

MR. HANNAH: We have a motion to move the question. Is there a second?

DELEGATE: Second.

MR. HANNAH: And there is. Those in favor, signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed, "no."

DELEGATES: (No response)

MR. HANNAH: And, therefore, the question is before us.

MS. JORDAN: Jordan, delegate. Can we put a motion before the floor at this time to table, a move to table?

DELEGATES: No.

MS. JORDAN: I would like to hear that from the Parliamentarian.

MR. HANNAH: Not that she doesn't trust you, let the record reflect. The kind gentle woman from Tahlequah.

MS. JORDAN: It's not that I don't trust. I would like to hear it from her, though.

MS. LANGLEY: Yes, you could, but I think it will fail.

MR. JORDAN: That wasn't the answer that I was looking for.

MR. HANNAH: Clairvoyancy of the Parliamentarian is not allowed. The Chair will rule.

MS. JORDAN: The reason I move to table is for maybe possibly some caucusing because there is no guarantee, if we go to eighteen, that three of them will be at-large delegates. We need to think about this seriously.

MR. HANNAH: Is there a second to the motion to table?

DELEGATE: Second.

MR. HANNAH: There is a second. We have a motion to table the discussion with regard to the number eighteen -- fifteen, excuse me. Thank you.

MR. POTEETE: Mr. Chairman.

MR. HANNAH: Just one moment here. I'm hearing out of both ears.

MR. POTEETE: The reason for making that motion is perhaps that we could find some parliamentary way to adopt Mr. Hathaway's suggestion of seventeen before we get done with all of this.

MR. HANNAH: Thank you very much.

MR. JOHN KEEN: Mr. Chairman, I requested a point of clarification.

MR. HANNAH: And the Parliamentarian reminds me that if we were to proceed with the vote, that if fifteen fails, obviously it would open for more numbers.

DELEGATES: Why?

MS. LANGLEY: You're at a standstill, so you might as well open the blank up again.

DELEGATES: No.

MR. HANNAH: The Parliamentarian being clairvoyant again.

MR. LANGLEY: If it fails, fifteen fails.

MR. KEEN, JR.: If eighteen fails.

DELEGATE: Well, let's take a vote.

MS. MEREDITH: Mr. Chair, could we have a five minute recess?

MR. HANNAH: One moment here, folks. We are doing so well, okay. I'll so very proud of all of you. And the kind lady from Oklahoma City is recognized.

MS. MEREDITH: Could we take a five minute recess and let the people who need to talk with each other, who could work this out, talk to each other and then we can --

MR. HANNAH: The Chair declares a five minute recess. We'll be in here in five minutes.

(recess taken)

MR. HANNAH: Where we are is, we have a motion that has been seconded to table the motion that would strike the number fifteen. And hearing no objection, we'll move for the vote on the tabling.

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

DELEGATES: Aye.

MR. HANNAH: And those opposed.

DELEGATES: No.

MR. HANNAH: Okay. I'm going to ask the kind gentleman to step away from the microphone. And the Chair will entertain another vote.

And we are voting on the motion to table the motion that is before us to strike the number fifteen. And those in favor of tabling, please signify by saying "aye."

DELEGATES: Aye.

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

DELEGATES: No.

MR. CORNSILK: Abstain.

MR. HANNAH: What was that, Mr. Cornsilk? Can you abstain? The Chair would not touch a declaration on that vote with a ten foot pole. So, therefore, we will move to the voting method with regard to the motion to table.

Now, it has been brought to my attention -- take a moment of privilege here -- that in our zeal for embracing technology --

DELEGATE: We'd better pull the drapes.

MR. HANNAH: I would accept that as a motion. There is a motion on the floor to pull the drapes. Is there a second? There is no second. In other words, what's going on here?

What's going on here, folks, may be the consideration of the psychological impact of us watching this vote taking place.

That's what I like about Cherokees. Hell, no, that's not true. By God, who said that.

DELEGATE: Strike that from the history book.

MR. HANNAH: The kind lady from Oklahoma City is recognized.

MS. MEREDITH: I think there are other things available to us. There are other avenues available to us. We don't necessarily leap immediately into a roll call vote. We could stand

up or raise our hands.

MR. HANNAH: That's very true. What would be the pleasure of the delegates for the vote on the motion to table?

DELEGATE: Standing vote.

MR. HANNAH: Standing vote has been suggested. The Chair will conduct. Mr. Secretary, we are going to conduct this by having -- you are going to pass in front of the delegates.

MR. UNDERWOOD: Right.

MR. HANNAH: We have a motion before us to table the motion to strike the number fifteen. It has been seconded and we are preparing for a standing vote. And all of those in favor of the motion to table, please stand.

MR. UNDERWOOD: Twenty-seven.

MR. HANNAH: Be seated. Those voting "no," please stand.

MR. UNDERWOOD: Forty.

MR. CORNSILK: I abstain.

MR. HANNAH: Mr. Cornsilk abstains.

MR. UNDERWOOD: Forty.

MR. HANNAH: In the affirmative, twenty-seven; those noting "no," forty. The motion to table does not carry and we return to the motion that is before us to strike the number fifteen.

DELEGATE: Call the question.

MR. HANNAH: The question has been called.

MR. KEEN, JR.: Point of order.

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

MR. KEEN, JR.: The question has already been called and we were preparing to proceed with the vote.

MR. JOHN KEEN: Point of personal privilege.

MR. HANNAH: Mr. Keen.

MR. JOHN KEEN: Just a moment. I appeal the decision from the Chair.

MS. LANGLEY: What do you appeal?

MR. JOHN KEEN: The decision disallowing the number seventeen motion by Mr. Hathaway.

MR. HEMBREE: That would not be in order.

MR. JOHN KEEN: I can challenge the Chair. I've got the book. I've got three of them. You're welcome to look at them.

MR. KEEN, JR.: Point of order.

MR. HANNAH: Mr. Keen the intermediate.

MR. KEEN, JR.: Any challenges to any rulings by the Chair must be made contemporaneous to that ruling.

MR. JOHN KEEN: I believe we're still in the time frame involved here. We're still on the numbers here and we haven't come to a decision on the numbers. So I submit that we should be allowed to place another number up on the table.

MR. KEEN, JR.: I'll leave it to the discretion of the Chair.

MS. MASTERS: It goes to the count, it goes to a

vote.

MR. JOHN KEEN: It goes to a vote. By the book, it's majority vote.

MR. HANNAH: And what we are voting on at this point -- please help me through this folks, because we're all in this together. We have a challenge to the Chair.

MR. JOHN KEEN: I'm appealing the ruling of the Chair.

MR. HANNAH: You're appealing the ruling of the Chair with regard to the out of order declaration regarding the number eighteen to seventeen, making it seventeen.

And the kind delegate from Grove will awaken and rejoin us here in the room.

MR. SPENCER: Let's get this show going.

MR. HANNAH: You're doing fine. Stay in there.

And so, therefore, we have a motion to overrule the Chair. Overrule the Chair. With regard to my ruling on the disallowance of seventeen supplanting eighteen. Mr. Hembree.

MR. HEMBREE: On order. Mr. Chairman, I am referring to the new Robert's Rules of Order, second edition, page 124, which states, "A formal appeal can be made only at the time of the decision of the Chair."

The decision of the Chair to not allow number seventeen was taken several votes before this one. So I would say that Mr. John Keen's motion to appeal the decision of the Chair should not be denied because it is not timely. John, you're already in the affirmative.

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

MR. CORNSILK: Was not Mr. Hathaway's attempt to re-make his motion an appeal?

MR. JOHN KEEN: No, sir, it has to be formed.

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

MR. JOHN KEEN: I withdraw. Not my motion, just my comment.

MR. HANNAH: Thank you. Thank you very much.

And so we are back to a motion to override the Chair. And is there a second? Do I hear a second?

DELEGATE: Second.

MR. HANNAH: And I hear one. And with no opposition, we'll move toward a vote. And all of those in favor of the motion to override the Chair, please signify by saying "aye."

DELEGATES: Aye.

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

DELEGATES: No.

MR. HANNAH: And I feel somewhat overridden. Therefore, Mr. Hathaway, I assume that you are recognized. And I'll do more than assume. You are recognized, Mr. Hathaway.

MR. HATHAWAY: Mr. Chairman, the purpose of my suggestion was to try to reach a number that would be able to be accepted as a consensus by the delegation. And if we were to

substitute or add to this, the numbers fifteen and eighteen, the number seventeen, so that we might have a motion to consider that. May I make it then, as if we have overruled, to have an addition of the number seventeen to the list?

MR. HANNAH: A motion is on the floor to add the number seventeen to the pooling of eighteen and fifteen. Is there a second?

MR. JOHN KEEN: Second.

MR. LITTLEJOHN: May I offer --

MR. HANNAH: An amendment to make number seventeen, number sixteen.

MR. LITTLEJOHN: I offer a friendly amendment. And that amendment would be to substitute the number seventeen and eliminate the numbers fifteen and eighteen.

MR. HATHAWAY: I will accept that friendly amendment, Mr. Chairman.

MR. KEEN, JR.: Point of order.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: That would, in fact, defeat this body's ability to make a choice. That motion, I feel, is out of order, sir.

MS. STROUD: Question.

MR. HANNAH: Question.

MS. STROUD: Virginia Stroud. I'm wanting to know what effect this is going to have in our redistricting. Could somebody help me on that, with what is going to take place with our redistricting.

MR. HANNAH: Ms. Stroud, I apologize. That is a debate that is not on the floor at this time. We are dealing with the pooling of numbers. And at this point, it is my impression that we have a motion.

MR. GUNTER: Are we discussing the motion?

MR. HANNAH: The Chair is restating the motion so we can all stay together here on the same page.

MR. HATHAWAY: Are we just adding seventeen then, Mr. Chairman?

MR. HANNAH: Mr. Hathaway, last I heard from the floor was that you had a motion to insert into the pool of numbers, with numbers existing of eighteen and fifteen, to insert the number seventeen.

And there was discussion by Mr. Littlejohn to present a friendly amendment to your motion to delete the numbers eighteen and fifteen, thus leaving only seventeen.

And there was a point raised by Delegate Keen that this would, in fact, eliminate the opportunity of choice of the delegates.

Now, I say that by way of restating what happened here. And the Chair looks for nods in the room. Is this where everyone understands where we are? The Chair will look to the Parliamentarian to help him out of this mess for a moment.

MR. DOWNING: Do we not have two motions before the floor?

MR. HANNAH: You are recognized, sir. And we do. Which is -- but we're blanking so we can, I am told by the Parliamentarian. Sir, you are recognized.

MR. WHEELER: Delegate George Wheeler. We have already voted on the number eighteen. We cannot now replace it by, at this late date, and this mechanism. We would have to insert the number eighteen and not replace the number -- insert the number seventeen and not replace the number eighteen.

MR. HANNAH: You just said that we would insert the number seventeen and not replace the number eighteen.

MR. WHEELER: I believe that you could do that. You could not replace the number eighteen with the number seventeen, since the number eighteen has already been voted upon.

MR. HANNAH: And the Chair will be corrected, but I am of the opinion that the motion was simply to add the number seventeen to the pooling of numbers consisting of eighteen and fifteen. Is that correct, Mr. Hathaway?

MR. HATHAWAY: Mr. Chairman, that was correct. And I believe my friend will withdraw his friendly amendment and I will withdraw my continuing motion.

MR. HANNAH: We have a motion on the floor -- restating, a motion on the floor to include the number seventeen in the blank pooling, also consisting of the numbers eighteen and fifteen. And, Mr. Lay, you are recognized.

MR. LAY: Thank you, Mr. Chairman. What I would like to know now is, are we blanking again, adding more numbers if we want to? Is that what you're telling me?

MR. HANNAH: What we are doing is that I was overruled in a previous motion during the discussion of blanking, the addition of numbers, where Mr. Hathaway initiated a motion wanting to change the number from eighteen to seventeen. And the Chair erroneously, thinking that that would be an adjustment of the theory of numbers, requested that he be seated, and we moved on with the proceeding.

It has been raised and it has been passed by this body that his motion should, in fact, be brought before the delegation. And we are in debate with regard to that motion at this time. How is that, folks.

MR. LAY: Thank you, sir.

MR. HANNAH: Very well. We all want to make sure we know where we are. Any other debate with regard to the inclusion of the number seventeen in the pooling? Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, Delegate Cornsilk. I would encourage this body to vote for the number seventeen. It is an odd number and it also increases the Council, which then also gives the possibility of delegates for the absentee people.

MR. HANNAH: Thank you, sir. The kind gentleman

in the back there. Excuse me, sir.

MR. GUNTER: Jerry Gunter, delegate. One thing that I notice as we're discussing this numbers is that if a two-thirds majority is required to have a quorum, and you have a Council of fifteen persons, you're required to have ten persons present.

If you have a Council of seventeen persons and a two-thirds quorum is required, you will be required to have twelve persons present. That means that five -- an excess of five people can hold up business today, and it may increase the number by two, and an excess of five other people can hold up business the next day, tomorrow.

MR. HANNAH: Thank you for your comments, sir. You are recognized, sir.

MR. CROUCH: Delegate Crouch. I would like to speak in opposition to the number seventeen. It neither expands the Council enough to make a difference, as has been noted by the math presented before me, nor does it leave us where we are already.

And before that insertion was set up, we had essentially a stand pat, easy to sell to the rest of the Nation, fifteen. A small, but significant increase in the size that might or might not have had something to do with increasing the representation for those people who live outside the fourteen counties.

Therefore, I speak in opposition to the number seventeen.

MR. HANNAH: Thank you, sir. Good Doctor, you are recognized.

MR. ROBINSON: Ricky Robinson, delegate, Tahlequah. I would like to respond to both. I think that the two extra that would be included in the number seventeen would be adequate for us to look at the possibility of representatives from outside the districts. Also, I would take exception to the previous gentleman -- I forgot his name now --

MR. HANNAH: Mr. Gunter.

MR. ROBINSON: I understand what he's saying. But I would like to point out that the two-thirds majority has not been set. That's something to be decided later on. And I think several of us in here are going to be in favor of a simple majority, no matter what the number is. But an odd number will help us.

We have not set what type of majority it is, so that should really -- is kind of a side bar to the whole thing.

MR. GUNTER: I would like to point out one other point in the math, if I might. And that is that if you've got a two-thirds majority of people to conduct business with a Council of fifteen, you require ten people that must be considered adequate to do the business of the Nation.

If you've got a simple majority and a Council member of eighteen, you're required to have ten people present to conduct business. That's the same number of people required to be present.

If you have seventeen, you've got a simple majority, you've only got nine people required to be there, meaning that

you're reducing the number of people that have to be in the meeting with seventeen, but you still have to have that same amount even if you make it the majority instead of the two-thirds majority.

MR. HANNAH: Chair allows this discussion, because he believes it to be somewhat germane to the discussion of numbers. Mr. Keen, you are recognized.

MR. JOHN KEEN: John Keen, delegate. I'm speaking for the number seventeen. There again, I spoke out in favor of eighteen rather than fifteen earlier. My biggest reason was, it's better than fifteen.

But I agree wholeheartedly with Mr. Hathaway's reasoning. Two is better than nothing. And I don't believe we're going to sell it to ourselves with more than two additional, much less the people, with the way it's looking.

And once again, I believe one of the main points that the people testifying at the public hearings were, enlarge the Council.

So rather than have a pat number of fifteen to sell to the people, we need to bow to their will and enlarge the Council.

MR. HANNAH: Thank you, Mr. Keen.

MR. ROBINSON: I'm not sure if it's proper for me. I just spoke.

MR. HANNAH: And oddly enough, I would think that we are all good people here and if you would make your remarks brief. There are other individuals that deserve to be heard. If you have a comment, please make it.

MR. ROBINSON: I would just like to say in respect to the gentleman, the math that he dealt with was somewhat simplistic. I still say it's simply easier if you have an odd number. It will be more receptive to if we do later go to a simple majority rule. And having an odd number is not going to make much of a fractional divisional mathematical difference if we do go to two-thirds.

MR. HANNAH: Thank you very much. Mr. Mullon, you're recognized.

MR. MULLON: Thank you, Mr. Chairman. I just wanted to comment that the problem of the number twelve is tied to the use of the word "majority." That could be solved by stating that a quorum could be established by the attendance of eleven members. So it's not like impossible to solve that issue.

MR. HANNAH: Thank you for that point. Kind sir, you are recognized.

MR. CLARKE: Mr. Chairman, William Clarke, delegate from Muskogee. Since I'm the person that made the recommendation for the number eighteen to be up there, I am willing, if it's okay, to withdraw that and accept the number seventeen.

MR. HANNAH: We have the author of the number eighteen, the gracious author of number eighteen.

MR. CLARKE: And it was almost a best seller.

MR. HANNAH: But not quite. Has arisen to withdraw his number from the pooling. And apparently someone

initiated a second, and that would be to --

DELEGATE: It wasn't.

MR. HANNAH: It was not seconded. Very well.

So number eighteen is no longer part of the pool.

DELEGATE: Second.

MR. HANNAH: Actually, I believe -- and one moment, young lady. I believe that we have two motions on the floor. And we need to do a little cleanup work here. Okay. Let's just stop and all focus here for a moment.

We have an original motion that was provided before the Chair was challenged, to strike the number fifteen from the pooling.

And either the author of the number fifteen should identify themselves, and if it would be their design to withdraw that number, or we need to bring that motion to a vote. The maker of the motion to delete number fifteen.

Now, who remembers?

MS. STARR-SCOTT: Mr. Chair, I will withdraw my fifteen in favor of his motion of seventeen.

MR. HANNAH: So now we have a withdrawal of the number fifteen, leaving the pool with only one number, seventeen. And there is a motion on the floor to consider the number seventeen.

MR. HATHAWAY: Is there?

MR. HANNAH: Yes, there is. Trust me, Mr. Hathaway.

MR. HATHAWAY: I call the question.

MR. HANNAH: Question has been called.

MS. LINNENKOHL: Point of order.

MR. HANNAH: Yes, ma'am.

MS. LINNENKOHL: Linnenkohl, delegate. I'm just wondering, since we already voted on the number eighteen, can he still withdraw it when it's already been voted on and accepted?

MR. HANNAH: It was voted on and defeated. We were voting to withdraw the number eighteen, as I recall.

MS. COLSON: No, eighteen was voted on and accepted.

MR. DOWNING: Point of information.

MR. HANNAH: Apology from the Chair to the delegates. Let me share with you, folks, this can be, in fact, one of the most confusing seats in the room. Stick with me. I promise not to let you down. And the kind lady from Houston. Thank you very much for raising that point.

We would not -- we are not, ladies and gentlemen, going to trip over this process. We are about the process of deciding one of the most important decisions. And we've had a bit of good-natured jocularly here as we've moved along with this, and I think that's healthy and good. But we also will remember that these numbers bear great importance to our people.

So at that point, we do know that we had the number seventeen in the pool and the number eighteen reappears in the pool.

And there is a motion on the floor, as I recall, with

regard to the number seventeen to be added.

DELEGATE: Call for the question.

MR. HANNAH: And we have called for the question. And hearing no opposition, all of those in favor of the number seventeen being added to the pool, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

DELEGATES: No.

MR. HANNAH: And the number seventeen is in the pool, along with the remaining number of eighteen. What is the pleasure of the delegates?

MR. BILL BAKER: I move we accept seventeen by acclamation.

DELEGATE: Second.

MR. HANNAH: There is a motion for acceptance of seventeen by acclamation, and a second.

MR. CROUCH: Division of the house.

MR. HANNAH: Division of the house is called for. I cannot accept your motion, Mr. Baker. What is the pleasure of the delegates? We have two numbers in the pool, numbers eighteen and seventeen still. Mr. Poteete, you are recognized.

MS. LANGLEY: We can't accept his motion by acclamation, but we can accept his motion to delete.

MR. POTEETE: I was about to suggest that you simply do a voice vote, how many in favor of seventeen and how many in favor of eighteen, and see if you can make a determination. I think we have a consensus for the number seventeen. It would be worth a try.

MR. HANNAH: I believe that the kind man from Webbers Falls has an overly abundance of common sense that we will embrace. If there is no opposition. With the exception of my kind friend, who rises with a point.

MR. KEEN, JR.: I would like to make a point. Troy, in your common sense wisdom you have brought us right back into the framework of Robert's Rules of how this process is supposed to work instead of all this business of striking numbers. So thank you.

MR. HANNAH: And with that, the Chair will follow the desires of the delegates. It has been my role since yesterday and will continue to be so. Mr. Keen, simply because this is an important issue.

MR. JOHN KEEN: I just request a clarification. We are going to be voting on both numbers at the same time?

MR. HANNAH: We'll vote on the numbers individually.

MR. POTEETE: That was the idea. If that doesn't work, we can do something else.

MR. JOHN KEEN: I make a motion we accept seventeen.

DELEGATE: Second.

DELEGATE: Call the question.

MR. HANNAH: Out of order. We have another motion on the floor. And the motion is one that was made by Mr. Poteete to vote on the numbers eighteen and seventeen individually. Is that correct, sir?

MR. POTEETE: That's correct. I think we have a consensus and we can save some time if we go ahead and do that.

MR. HANNAH: And the Chair heard a second with regard to Mr. Poteete's motion.

DELEGATE: Second.

MR. HANNAH: And is there any discussion? Then we move toward the vote. All of those in favor of voting on the numbers eighteen and seventeen individually, please signify by saying "aye."

DELEGATES: Aye.

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

DELEGATES: No.

MR. HANNAH: And, therefore, we are about the process of voting on the numbers eighteen and seventeen individually. We'll move to the number eighteen for our first vote.

MS. MASTERS: Mr. Chair, can we have a standing vote?

MR. HANNAH: Yes, we may. I have been corrected by the Parliamentarian that we will vote on the lower number first. And so the vote is for the acceptance of the number seventeen.

And, Mr. Secretary, if you will once again mount to the chambers, all of those in --

MR. CORNSILK: Point of information.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: Is a "yes" vote to keep the number seventeen?

MR. HANNAH: Yes.

MR. CORNSILK: Thank you very much.

MR. HANNAH: Yes. And thank you for the point of clarification. A "yes" vote will keep the number seventeen. And all of those in favor of seventeen, please rise.

MR. UNDERWOOD: The count is sixty.

MR. HANNAH: The count is sixty in favor of the number seventeen. There seems to be a great amount of pointing.

MR. UNDERWOOD: Sixty-one.

MR. HANNAH: Sixty-one. Thank you. Those who would vote "no" -- correct, those in favor of the number eighteen -- just hold on a second here, folks. The Chair grows weary and we are about a lot of most unique procedure here. Mr. Rutledge, you are recognized.

MR. RUTLEDGE: My understanding was when we began this, that when you reached the number and you actually got a majority, that was the end of it.

MS. LANGLEY: We just voted to vote on both of

them.

MR. HANNAH: We voted as Mr. Hathaway brought to us and we all approved to vote on both numbers. And we have voted on the number seventeen and it has received sixty-one votes. Are we all together and are we prepared to move for a vote on the number eighteen.

And all of those in favor -- Mr. Secretary, once again, mount to the chambers. All of those in favor of the number eighteen, please stand.

MR. UNDERWOOD: Eight.

MR. HANNAH: And the number is, sir?

MR. UNDERWOOD: Eight.

MR. HANNAH: Eight. The number seventeen stands. Mr. Baker.

MR. DONN BAKER: I'd like to make a motion that we never again do this pooling and blank on the numbers, or we never will get through.

MR. HANNAH: We will take that as simply a friendly amendment. And I will assure you, if anyone mounts to be recognized to do such, the Chair will not recognize them. And I'll have to be overruled and challenged by my friend to the west. Well spoken for a divorce attorney.

Now, as the Chair catches his breath. We still have good working time before us. And I'll need some help from the platform with regard to exactly where we are now in this process.

The Chair recognizes Mr. Keen and would ask that we return to our original agenda. And would you state the motion that is before us now with the blank filled.

MR. KEEN, JR.: As it stands, the motion previously made by Ms. Foster still remains on the table. The motion to consider and approve the language proposed in the revised version which appears on the screen is back on the table, and we filled in the blank for the number of Council seats. And that number is now seventeen. And so debate and discussion can continue on this section.

MR. HANNAH: The floor is open for debate. Mr. Rutledge, you are recognized.

MR. RUTLEDGE: I would offer a friendly amendment to Section 3 to delete the words "of Oklahoma" in the third sentence.

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

MR. KEEN, JR.: Accept it, sir. That was a Scribner's error.

MR. HANNAH: The scribe will delete that. Other debate from the floor? You are recognized, sir.

MR. WHEELER: Delegate George Wheeler. I would ask for a friendly amendment to change the numbers to coincide with seventeen in the rest of Section 3. To reflect the seventeen, instead of appointing nine citizens that we would derive from the number twenty-four, to change that throughout that section.

MR. KEEN, JR.: I'll accept that as a friendly amendment, and I think it's -- I think we're required to do it anyway.

MR. HANNAH: It will be throughout the section. Mr. Poteete, you are recognized.

MR. POTEETE: We've got major overhaul now because we don't have nine people for the Chief to appoint. We have two extra people. And rather than have these people appointed by the Chief, I think that we should determine that they should be appointed by newly elected Council, the Council that takes office, the fifteen in the next election.

MR. HANNAH: You rise to make this as a friendly amendment or --

MR. POTEETE: I think what we're going to get into is that the hour is late and I do not think that the gravity of the decisions that we must make and the energy level of the delegates permits that we overhaul this legislation this evening. It's nine thirty, everyone is worn out.

I suggest that we lay this on the table, people come back in the morning with their ideas about how to proceed about this particular issue.

MR. HANNAH: Mr. Poteete, have you introduced a motion to lay this on the table?

MR. POTEETE: I have.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: We have a motion to lay this discussion on the table. It has been seconded. And hearing no discourse in the chambers, all of those in favor of laying this article on the table, please signify by saying "aye."

DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

DELEGATES: No.

MR. HANNAH: And the Chair rules that it goes to the table. What is the pleasure of the delegates at this time?

DELEGATE: Adjourn.

MR. HANNAH: There is a motion to adjourn -- recess. Mr. Keen, you would be recognized.

MR. KEEN, JR.: Not seeking recognition, but I'll second the motion to recess.

MR. HANNAH: I would like to know -- just a minute, folks, we're going to go out the door orderly here tonight, okay. You all stay with me for just about thirty seconds. We're going out the door in an orderly fashion.

Is there a motion on the floor to recess until eight a.m. tomorrow morning?

DELEGATE: Yes.

MR. HANNAH: There is.

DELEGATE: Second.

MR. HANNAH: And it has been seconded. And all

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

DELEGATES: Aye.

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

DELEGATES: No.

MR. VILES, JR.: Mr. Chairman, I think you have done one heck of a job. Congratulations.

MR. HANNAH: This convention is recessed until eight a.m. tomorrow morning in these chambers. Please be prompt and get lots of sleep.

(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 27th day of February, 1999, at Northeastern State University, Net Building, 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 August, 1999.

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