

1999 CHEROKEE NATION CONSTITUTION CONVENTION

VOLUME IV

**TRANSCRIPT OF PROCEEDINGS**, taken on the 1st day of March, 1999, at  
Northeastern State University, 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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**COURTEMANCHE REPORTING SERVICE**  
**P.O. BOX 1196**  
**MUSKOGEE, OKLAHOMA 74402-1196**  
**(918) 683-3686**

Court Reporter: Marla J. Cullison, CSR

THEREUPON, the following proceedings were had:

MR. HANNAH: Thank you all for being attentive this morning. And good morning to you.

THE DELEGATES: Good morning.

MR. HANNAH: I trust everyone slept well last evening and had a good evening, and it is good to see all of you here this morning. We're going to open this morning with a word of prayer from the convention's interpreter, Ed Jumper. We'll be about a few housekeeping orders, then we'll take up the business of the day. So please be attentive as I ask Ed Jumper to come to the podium.

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

MR. HOOK: Mr. Chairman.

MR. HANNAH: Dr. Hook, you're recognized.

MR. HOOK: I would like to establish a motion. We have agreed, I believe, that we want to honor our culture and traditions, and although there are various ways of honoring that, in particular when it comes to feathers, I believe that in all of our different beliefs, the eagle feather represents the highest respect, responsibility, and honor.

And I would like to propose that this feather be placed on the podium during these proceedings as a symbol of the importance of these proceedings and respect and honor and responsibility afforded here. And I will invite input from any of the other delegates about this, and Mr. Raper has also asked to make some comments.

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

MR. RAPER: I have been to other tribal members, and I faithfully respect their cultures and tradition. Eagle feather is widely known to all cultures of Tribes and this is a short summons, but I see no problems with this one. Thank you.

MR. HANNAH: Thank you, sir. The motion is on the floor to place the eagle feather before us as a symbol of the authority of this convention. Is there a second?

DELEGATE: Second.

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

THE DELEGATES: Aye.

MR. CORNSILK: Mr. Chairman.

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

MR. CORNSILK: Being a member of the ceremonial stomping grounds and attending those quite regularly, I will only offer that in our traditional culture that we treat the eagle feather with a great deal of respect and that it not be handled by anybody but the person placing it.

MR. JOHN KEEN: Mr. Chairman.

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

MR. JOHN KEEN: Just to say that we acknowledge Dr. Hook as the custodian of the feather.

MR. HANNAH: Very well. Motion with informational amendments have been placed, and all of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

Dr. Hook, if you would be the keeper for us during the proceedings.

(Feather placed on the podium)

Mr. Secretary, what is the report of the credentials report this morning?

MR. UNDERWOOD: Mr. Chairman, I have a report. We have sixty delegates registered, creating a quorum of thirty-one.

MR. HANNAH: And also from the Credentials Committee, we have a delegate appearing for the first time, Delegate Stopp. Delegate Stopp, good to have you here this morning. And hearing no objections from the floor, you will be seated as a delegate.

And, Mr. Justice, I would ask that you would administer this gentleman the oath. And Mr. Stopp, if you would accompany the Justice, we'll be about the rigors of having your oath administered and then we will be seated.

Ladies and gentlemen, it is Monday, March the 1st, and we are here and there's sufficient of us to continue the business before us. And the Chair would recognize Barbara Starr-Scott.

MS. STARR-SCOTT: Point of privilege. If the Chair would, I would like for us to take a moment to remember one of our original enrollees, Sally Mae Griper (sp), who passed away yesterday, if we could have a moment of silent prayer in honor of this original enrollee.

MR. HANNAH: Would all of the delegates and those in the gallery please stand for a moment of silence?

We'll please be at prayer.

(moment of silent prayer)

Thank you, you may be seated.

MR. CORNSILK: Mr. Chairman.

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

MR. CORNSILK: I would like to offer a friendly motion to the delegates, that being that since this is such a historic occasion, and perhaps twenty years from now people will wonder why we did what we did, that all of our personal notes be submitted to the Commission for archival.

MR. HANNAH: Thank you, sir. Will be submitted as a friendly amendment to each of the delegates. I would also raise that one of the delegates this morning, just by way of conversation, brought what I thought was a most interesting suggestion for us.

No official action obviously being offered by the Chair, but simply is a thought. That as we conclude our proceedings, that

each of the delegates that have participated here during this time write a letter to the delegates of future constitutional conventions. And that those letters would be collected and sealed and kept among the archives of the Cherokee Nation, so that they might be open, should in fact the citizens of our Nation so elect to direct our Tribal Council and its government to convene a constitutional convention some twenty years hence.

That those delegates might open those letters, and that they might read of your admonitions, your emotions, your concerns, and that somehow the words and experiences that you are mustering through these days could somehow be translated to those future framers that would take us on through this coming century. I thought that would be a fascinating idea.

And I would like for each of the delegates as we continue through our deliberations, give thought to the fact that we are genuinely here to address the future of the Cherokee people. I know that yesterday's debate focused a great deal on activities of the past and activities that have been.

And it is right and just that we examine, obviously, the challenges that have been before us because those, obviously, who fail to understand their history are often times relegated to repeating their history.

I also would like to focus as much of our attention towards the good work that is before us in preparing the Cherokee people to move effectively into this next century. As I have said before, and will continue to say, this Constitution in many ways is not for the individuals that are seated in this room; it is a Constitution that will be for our children, for our descendants, and we need to be about that work.

The Chair will entertain the business of the day, and Mr. Keen you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman.  
Continuing in Article V, we've made substantial progress in this, folks.

MR. HANNAH: The infamous Article V.

MR. KEEN, JR.: Yes. Before we recessed last night, we did finally approve the language of Section 4, and so we continue with Section 5 of Article V.

And my motion is that this convention approve the language as submitted in the revised version of the Constitution endorsed by the Commission. And I will point out that this language is unchanged from the 1975 Constitution with the exception of a gender reference in the first sentence.

MR. HANNAH: Motion before us at this time; is there a second?

DELEGATE: Second.

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

Mr. Hembree, you are recognized.

MR. HEMBREE: I'll defer to the good lady.

MR. HANNAH: Ms. Masters, you are recognized. How rise you? And I'll take this opportunity, if I may, Ms. Masters. May I?

MS. MASTERS: Sure.

MR. HANNAH: I'll take this opportunity to remind the delegates that yesterday the Chair indulged the convention perhaps to its outer limit with regard to debate. There will be those that no doubt will criticize the Chair as we move forward, which is willing to accept with regard to the amount of debate that has been allowed with regard to these issues.

The Chair believes that it is a strong and traditional voice of our people, though, that we will be heard. And the Chair always is mindful that we need to be about the business, but at the same time, the Chair is interested that all facets of opinions are heard.

I would today, though, ask my Vice-Chairman to assist, and the other officers of the convention, as we move through various levels of debate that we see to it that the Chair is mindful that we hear those for and those against with a bit more balance. So please indulge the Chair if I prod toward you upon rising of inquiring how you rise toward the issue.

And with that -- thank you, Ms. Masters, for allowing me to have yet another moment of housekeeping, and you are recognized, and I would ask how rise you with regard to this amendment?

MS. MASTERS: I would like to move to amend.

MR. HANNAH: And your amendment?

MS. MASTERS: In the fifth line down, following the two words, "registered voters" -- following "registered voters," I would like to amend that by inserting the phrase, "who voted in the last election."

After voters, it would be, "who voted in the last election," and in the last line, where it says "A and B," I would change "A and B" to say, "pursuant to all the above" -- pursuant is already there, sorry about that -- change "A and B" to "all the," and delete "A and B."

My rationale for this is that "C" above is allowing this privilege -- or this ability to our Council members to be able to call themselves in to order, if the need arises.

And "D," of course, is reserving the right to the people, which any place within this Constitution, I think that we can reserve rights to the people is something that I would really be interested in.

MR. HANNAH: The amendment is before you; is there a second?

DELEGATE: Second.

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

MR. HEMBREE: Well, I guess I probably should be yielded.

MS. MASTERS: Right behind the last, put in the

word "general," "last general election." Not "primary," but what we're working for here is the "general election" not "primaries." There you go. I think that's perfect. Thank you.

MR. HANNAH: Chair apologizes to the good Delegate. Have you finished with your amendment?

MS. MASTERS: Yes, I have.

MR. HANNAH: Okay. Thank you. And a second was heard. Mr. Hembree, you are recognized.

MR. HEMBREE: Yes, Mr. Chairman, I rise in opposition to the amendment. What I was going to say before I yielded to the kind lady is that we have a very fine, workable Section 5, something that probably I would suggest that everybody -- most everybody was in agreement with prior to coming into this building.

What Section 5 does is allow for alternate ways to call a special meeting of the Council. That should be done as easy as possible, especially as to the general populous.

Now, if you have ten percent of the registered voters, you're going to -- and you add the language, "who voted in the last general election," you're going to run into a logistical nightmare on that, and you're going to also deny a constitutional right to other people who didn't vote in the general election that should have a right to call a special election.

So, therefore, ladies and gentlemen, I say let's deal with this amendment expeditiously, let's deal with Section 5 expeditiously. It's not controversially. We have much more meatier topics that we should go to. Let's just not change the language for the purpose of changing language.

I'm opposed to this, and let's get the amendment out and let's pass Section 5 rather quickly. Thank you.

MR. HANNAH: Thank you very much, sir. Is there a delegate who'll rise in favor of the amendment?

Mr. Keen, do you rise in favor?

MR. JOHN KEEN: Delegate John Keen, I rise to make a motion to limit debate two for, two against, three minutes apiece.

MR. CORNSILK: I second.

MR. HANNAH: There's a motion on the floor to limit debate three minutes, two for, two against. It has been seconded. Hearing no opposition, all those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And the motion is carried. And the floor is open for debate.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: You are recognized, Mr. Cornsilk. How rise you?

MR. CORNSILK: I rise in inattentive support of this. Having been the author of numerous petitions before the Tribal Council and the Principal Chief, I think I understand what

Ms. Masters is attempting to do, and I would offer her a friendly amendment. What it looks like she's trying to do is lower the number of people required to call a special election. Am I correct?

MS. MASTERS: Yes.

MR. CORNSILK: And I think a better wording of that might be "the number of persons who voted in the previous election," rather than "who voted in the previous election." It sounds like we're going to be required to go down and hunt down the people --

MS. MASTERS: No, that's not -- I accept the friendly amendment.

MR. CORNSILK: The friendly amendment, Mr. Chairman, was the number of people -- well, anybody remember how I said that? Change few to just the number of -- is that what it is?

No, because we don't want to have to go out and hunt down twenty-two hundred people.

MR. GUNTER: How about ten percent of the number of a number equal to?

MR. CORNSILK: Those who voted in the previous election.

MS. MASTERS: I think this gets it.

MR. CORNSILK: Does that satisfy our --

MS. MASTERS: Yes, I accept it.

MR. CORNSILK: I can't see the board. I wear glasses.

Anyway, let me continue with my reasoning behind this, and then maybe we can get the wording straightened out. But we want to make it as easy as possible for the Cherokee people to call their Council members together when they have an emergency and have a need to not discuss the issues before the Tribe.

And if it had been easier these last six months or last two years for the Cherokee people to call the Council together, I think that we probably would have seen a very clear message as to whether or not the boycotters were right or the eight Councilmen were right. And so I think if we make it as easy as possible to call the Council together, with still making it work, but make it easy, I think we'll see the Cherokee people respond.

MR. HANNAH: Thank you, Mr. Cornsilk. Chair will entertain a delegate speaking in opposition.

MR. SMITH: I have one amendment, sir, that may not be hostile. The whole last sentence has no value if you extend that right to all of the above. So to accomplish -- I would think the most simple way to accomplish the delegate's objective is to strike the whole last sentence, and then everybody could call a special meeting within thirty days.

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

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

MR. JOHN KEEN: I submit to the Chair that it's not proper to accept any friendly amendments after my motion to limit debate.

MR. HANNAH: Very well, thank you for making that point, sir, and the Chair will yield.

The Chair will entertain speakers in opposition to the amendment that is before us. You are recognized, ma'am.

MS. HAVENS: Mr. Chairman, Edna Havens, Nowata County. I like the old language because you don't have to go out and start searching. You just get a number, and you can go to the people who are registered. To me, it's much simpler than going the long route. And I thank you.

MR. HANNAH: Thank you very much, ma'am. The Chair will entertain one additional speaker in favor of the amendment that's before us.

Seeing none, the Chair will entertain one additional speaker in opposition to the amendment that's before us.

Seeing none, the Chair will move for the vote.

MR. JOHN KEEN: Point of clarification. What are we voting on?

MR. HANNAH: We will be voting on, I assume -- thank you very much for that clarification. The Chair needs to clarify exactly where we are. At this point, we have limited debate, and debate has now finished with regard to the amendment that has been presented by the good lady from California. So I, therefore, would move us to vote on that amendment. Debate has concluded.

MR. HOOK: Point of information.

MR. HANNAH: Yes, sir, Dr. Hook.

MR. HOOK: Just for clarification, can someone give me an approximate number of registered voters and approximate number who voted in the last election, so I have something to compare those to?

MR. HANNAH: Yes, sir. Mr. Center, do you have those numbers? I had called your office and requested those thinking that they might be helpful for us, but if you have them --

MR. CENTER: I don't have them off the top of my head, but I will call the office right now and get them.

MR. HANNAH: If the delegate will -- the good lady from Texas is recognized.

MS. BERRY: Unfortunately, this is the first day I didn't bring my briefcase. I believe that there were eleven thousand eight hundred voters in the election for Principal Chief last time, and there are approximately, to my memory, twenty-two to twenty-three thousand registered voters worldwide.

MR. GUNTER: Mr. Chairman.

MR. HANNAH: Chair has the numbers. Chair directed registration's secretary on Friday last week to contact the Election Commission for those numbers. Voters voting in the 1995 election, eleven thousand eight hundred and eighty. Registered voters, total registered voters in the Cherokee Nation currently, thirty-two thousand. Qualified voters, twenty-three thousand.

And the Chair would obviously entertain challenge of

these numbers if they're not correct, but this is as of Chair's research on Friday.

Dr. Hook, does that satisfy your inquiry?

MR. HOOK: Yes.

MR. HANNAH: Mr. Vice-Chairman, just for clarification, is the Chair correct in the next level of activity that we would bring the amendment for a vote?

MR. KEEN, JR.: Yes, sir, I believe you are.

MR. HANNAH: In that case, then, what we are voting on, folks, is the amendment that was submitted by the good lady from California that you see in underline and in strike; is that correct, Mr. Vice-Chairman?

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

MR. HANNAH: And so there's an insertion here of "number of." And I'll read the sentence for it to be in context, "of registered voters who voted in the last general election," and then a striking of to A and B for the sections in all of above.

MR. KEEN, JR.: Mr. Chairman, before we vote on this, I think that "to" that was after "pursuant" should not be struck out.

MR. HANNAH: Okay, the "to" --

MR. KEEN, JR.: "Pursuant to all of the above."

MR. HANNAH: Very well. All of those in favor of the amendment in support, please signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: Chairman is undecided and --

MS. MASTERS: Standing vote.

MR. HANNAH: Standing vote. Thank you. And thank you, delegates, for a standing vote. Obviously, we have good faith in our Secretary's ability to count, and the Chair has good faith in the delegates' ability to stand, at least at this hour of the day. And it obviously is much quicker for us than moving to the roll call.

And so, Mr. Secretary, will you conduct the standing vote? And all of those in favor of the amendment, please stand.

MR. UNDERWOOD: Forty-three.

MR. HANNAH: Please be seated.

All of those in opposition to the amendment, please stand.

MR. UNDERWOOD: The count is fifteen against.

MR. HANNAH: Count is fifteen against, forty-three in favor. Motion passes and the language is added.

Mr. Keen, you are recognized.

MR. JOHN KEEN: Motion to accept Section 5 by general consent.

THE DELEGATES: Objection.

MR. HANNAH: Okay. Mr. Keen, you are recognized -- oh, I'm so sorry, good gentlemen in the back, you are recognized.

MR. McCREARY: Mr. Chairman, I have a motion to add to Section 5.

MR. HANNAH: Let your motion be made.

MR. McCREARY: To Section 5 --

MR. HANNAH: Please state your name, Mr.

Delegate.

MR. McCREARY: Kenneth McCreary, Black Gum

Mountain.

MR. HANNAH: Thank you, sir.

MR. McCREARY: Thank you, sir.

To Section 5 as a separate paragraph. "In case of an emergency declared by the Principal Chief of the Cherokee Nation, the Council shall convene to consider those matters dealing directly with that emergency. No other business may be considered that is not within that emergency."

The reason I'm proposing this, the previous language in the first paragraph does deal with special elections that may be called by members of the Cherokee Nation and also by the Council and also by the Chief.

But in the past year, we've had at least one emergency that I can remember that might have needed the approval of the Council to deal with that particular emergency. And it is possible that emergencies like that do come up and that we may have to have the Council to be present to handle those resources and funding for those resources.

This is why I am presenting that particular paragraph, so that it will enable the Council or the Principal Chief to come to the meeting without the ten-day requirement or having to go out and get ten percent of the voting populous to bring it to a vote.

MR. HANNAH: The proposed amendment is before you, and is there a second?

DELEGATE: Second.

MR. HANNAH: The second is accepted, and the floor is open for the debate. And how stand you Mr. --

MR. HEMBREE: Delegate Hembree. Again, I rise in opposition to this amendment. Section 5 is a good section. It's very clear, very prominent. And people, we're adding language that is really not necessary. Now, I understand the good gentleman's reasoning for -- you know, to do away with the ten-day requirement, but the Principal Chief can call a special meeting, and the ten-day requirement is good and is there for a reason.

Because rarely are you going to come up with an emergency, and I don't think you ever will that is going to have a Council -- that is going to require immediately action from the Council. In case of an emergency, there are other avenues that can be dealt with without just a meeting of the Council itself.

Ladies and gentlemen, let's do our best to dispense with Section 5 as soon as we can because it's not controversial, and we're just adding language that is going to, like I said, bottle up here, and we're going to come up with a three-page Section 5 that is

not needed.

So in that -- in my closing remarks, I would like to make a motion to limit debate to two speakers in favor, two speakers opposed, three minutes apiece.

MR. HANNAH: Motion on the floor to limit debate.

DELEGATE: Second.

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

THE DELEGATES: Aye.

MR. HANNAH: Passes. Chair will entertain debate.

MS. MASTERS: I challenge the Chair.

MR. HANNAH: You are recognized.

MS. MASTERS: When a delegate stands up and gives a position, enters into the debate, they can not make a motion when they are recognized for that purpose.

MR. HANNAH: Parliamentary rules that that is allowable. Please be seated, and Chair will entertain debate.

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

MR. HANNAH: Yes, sir.

MR. KEEN, JR.: The Chair needs to make that ruling. The parliamentarian, just advising the Chair.

MR. HANNAH: The Chair has made that ruling. Debate is open. How stand you, Mr. Cornsilk?

MR. CORNSILK: Mr. Chairman, I rise in opposition to this amendment. I am not opposed to the Principal Chief having the power to call special meetings. That power already is vested in him in other sections of the Constitution.

What I am opposed to, being an active citizen of the Cherokee Nation and attending many meetings, is limitation of the ten-day wait period. I don't think that there is any emergency that occurs in the Cherokee Nation that cannot wait ten days, so that the Cherokee people can have time to review it, comment on it, and attend those meetings.

I know that -- I have a busy schedule; all of you have busy schedules; Cherokee people might want to fly in from California to come to a special meeting if the subject matter is of that great of importance.

So I would vehemently, vociferously, oppose the power of any, any elected official to call together the legislatures of our government in less than ten days.

MR. HANNAH: Thank you very much. Is there a delegate that rises in favor of the amendment? Is there a delegate that rises in favor of the amendment?

Dr. Gourd, you are recognized.

MR. GOURD: Mr. Chairman, Charles Gourd from Greater Keys, America. I rise in favor of the amendment. I know that at this point in time it would be difficult to imagine such an emergency situation, but at the same time, I think it would be a

fear on the part of some that we could end up with, you know, the boy who cried wolf syndrome. But at that same point, they would bring embarrassment to themselves.

It is clearly in my mind an absolute necessity that if an emergency to the Nation came about that at least one person, and it would be the Principal Chief as representative of all the people, to call an emergency session to address an issue that faces the good, health, safety, and nature and operation of the Cherokee Nation. Thank you.

MR. HANNAH: Chair will recognize the delegate rising against the amendment. How rise you Mary Ellen?

MS. MEREDITH: Point of information.

MR. HANNAH: Yes, ma'am.

MS. MEREDITH: I would like to know if there is an exact legal definition of the term "emergency," or if it would be litigated to death trying to figure out what is and what isn't an emergency. Is there a legal definition?

MR. HANNAH: Chapman-Plumb.

MS. CHAPMAN-PLUMB: That would be the hollow log that Mr. Scott was speaking about, where you split up and --

MR. HANNAH: The good lady was not heard, but her statement, she likened it to Delegate Scott's analogy of splitting open a hollow log. And I will not repeat the remainder because I believe the delegates are in remembrance of that analogy.

Chair will entertain delegate rising in opposition to the amendment. Mr. Keen.

MR. JOHN KEEN: Yes --

MR. HANNAH: Starr-Scott, how do you rise?

MS. STARR-SCOTT: I do rise in opposition to this.

MR. McCREARY: Mr. Chairman, point. As author of the particular section, and it's been pointed out to me, I would like to withdraw the amendment.

MR. HANNAH: The amendment is withdrawn. Mr. Rutledge, you are identified.

MR. RUTLEDGE: I would like to make one, hopefully, a friendly amendment. I think maybe we forgot that we separated the powers in the old Constitution, the Principal Chief could call the elect -- he was in charge of the Council. Preferably we need to insert the speaker so that he has the power to call a special meeting, also.

MR. KEEN, JR.: Point of order.

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

MR. KEEN, JR.: Point of order. The amendment was withdrawn, so if you want to add additional language, then that would be by separate motion.

MR. RUTLEDGE: I was offering a friendly amendment to yours.

MR. HANNAH: That was Chair's interpretation.

MR. KEEN, JR.: Okay. I'm sorry.

MR. HANNAH: Let's not be too hasty here, okay.

Mr. Rutledge, you are still identified, sir, and you may continue with your motion.

MR. RUTLEDGE: I was making a friendly amendment to insert under "A," "by the speaker of the Council," and then move down everything else.

MR. HANNAH: Mr. Rutledge. The Chair will remind you --

MR. RUTLEDGE: I'm assuming the numbers will be continued by documents on the way down. I also need to add "A," "B" or "C" on the bottom language.

I thought that amendment didn't pass -- oh, it passed.

MR. HANNAH: The language that you see, sir, is what is before us.

MR. RUTLEDGE: Okay, my -- would that be accepted as a friendly amendment?

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

MR. KEEN, JR.: Mr. Rutledge, I would like to poll the Commission. I would be in opposition of accepting this for this reason. I feel that the Council already has the ability to call a special meeting through the fifty-one percent, and I don't necessarily see the need for the speaker to have that individual power. That's my feeling. I would like to poll the rest of the Commissioners on this amendment.

MR. HANNAH: MR. Underwood, what say you?

MR. UNDERWOOD: I agree.

MR. HANNAH: Dr. Gourd?

MR. GOURD: I agree.

MR. HANNAH: Mr. Hannah agrees with the manager.

MR. KEEN, JR.: So, I'm sorry, sir, we will not accept this as a friendly amendment.

MR. HANNAH: What's your course of action, Mr. Rutledge?

MR. RUTLEDGE: I withdraw it.

MR. HANNAH: Very well, take a seat.

DELEGATE: Call for the Chair. We do have another Commissioner over here.

MR. HANNAH: Oh, I am so sorry. I am so sorry.

I did not see you standing there. Luella, where are you this morning?

MS. COON: Right here.

MR. HANNAH: There you are. Okay. I am so sorry, Luella. The Chair apologizes, and what -- we're taking the straw poll on whether we would accept the friendly amendment of this young man, and so far Mr. Keen has said, no, we would not, and George said, no, we would not, and Charlie has said, no, we would not, and so did I, and what say you?

MS. COON: No.

MR. HANNAH: And Ms. Coon said, no. The decision stands. And Ms. Coon, you are recognized. Thank you kind

lady from the west.

DELEGATE: Call for the question.

MR. KEEN, JR.: Mr. Chairman, I do call for the question on Section 5.

DELEGATE: Second.

MR. HANNAH: Question's been called for, and there's a second. All those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Opposed said "no."

And so the question before us is Section 5. Section 5 reads -- and if you vote yes when we take this vote, obviously this language will be approved.

"Section 5. Special meetings of the Council may be called "A," by the Principal Chief, "B," by the Deputy Principal Chief, when he or she has the full powers of Principal Chief as elsewhere defined. "C," upon written request of fifty-one percent of the members of the Council, or "D," under the written request of ten percent of members of the registered voters who voted in the last general election of the Cherokee Nation.

The purpose of said meeting shall be stated in the notice published not less than ten days prior to the meeting, and the Council may not consider any other subject not within such purposes.

No special meetings may convene until thirty days have elapsed after the adjournment of a prior session or meeting, unless called pursuant to all of the above."

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

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And the motion passes and the language is accepted and applied.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. We're moving ahead to Section 6. And the proposed revised version is essentially identical to the 1975 version, with the exception of a language substitution.

The previous language read, "member of the Tribe," and we replaced that with the terminology of "citizen." And that would be under Section B, yes, highlighted there.

MR. CORNSILK: Point of the information.

MR. HANNAH: Point of information.

MR. CORNSILK: Mr. Keen, I would ask that you explain to me, and this is a question that has arisen many times in my connection with the Tribe. The term "committees," does that include any body or organization created by the Council, or is that simply the Council members themselves divided into the various committees?

MR. KEEN, JR.: Mr. Cornsilk, you raise an interesting question. Unfortunately, I'm not very well suited to answer it. Maybe another delegate is. I can say within the discussions of our public hearings and the discussions of the

Commission, this issue was not clearly identified. There was some discussion about committees, but not in the exact context that you raise it.

Mr. Chairman, I have not satisfied his point of information. Perhaps another delegate or another Commissioner may be more helpful.

MR. GOURD: Mr. Chairman, Charles Gourd. It's been a part of the Commission's assumption in reference to this that things in the Constitution deal with things and actions of the government itself. And we would therefore also assume that whenever the Council creates an agency, board or commission, that that be available to the public as open hearings and meetings, with the exception of narrowly defined issues for executive session that, to our way of thinking, has been just a standard procedure.

So it may bind up the Constitution to start naming all of the things which may be created by the Council through legislation.

And at the same time, if you miss one, you have the same problem jump up again.

So our thinking on this was, again, as we pointed out, a lot of things that have come forward are more important than legislative issues that should be dealt with in that context by the Council so that the Council creates those assurances to the public.

Thank you.

MR. CORNSILK: I'm satisfied.

MR. HANNAH: Dr. Masters, you are identified.

MS. MASTERS: Yes. I rise to amend this particular -- now, that I have your attention for my amendment. I would like to add a "D" to this section, and "C" would become "D."

The "C" that I am moving to add would state, "Any individual disrupting the orderly conduct of business would be escorted from the premise by the Sergeant at Arms."

This is not an unusual scope of events that would take place, and it would come prior to just ending the meeting based on conduct. So I just feel that this would just add to what is a typical sequence of events in this case. It just seems like one was left out.

MR. HANNAH: Billie, will you repeat that?

MS. MASTERS: Yes. I will add a "D" to this section; "C" would become "D." The "C" that I am adding would state: "Any individual disrupting the orderly conduction of business, would be escorted from the premises by the Sergeant at Arms."

This is just a sequence of events that typically happens, and we've just missed one step before the procedures.

MR. HANNAH: The amendment is before you; is there a second?

DELEGATE: Second.

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

MS. MASTERS: Can I provide the rationale?

MR. HANNAH: Yes, ma'am.

MS. MASTERS: The rationale for placing this in, we have had meetings where any disruption of business did close down the meeting, rather than have the individual escorted from the premises. And I just feel that stating it here would have eliminated closing some of our meetings prior to that because this is a normal sequence of events.

MR. HANNAH: Delegate formerly of West Peavine is recognized.

MR. DOWTY: Delegate Darrell Dowty, Tahlequah. Mr. Chairman, this proposed amendment is not germane to the section. This section relates to exceptions to be allowed as to public meetings. It does not relate and should not relate to matters of disciplinary procedure to be imposed by the Council.

Section 2 of Article V has provided for the Council to establish its rules, and credentials, decorum and procedure. Therefore, by the Constitution the rules of decorum are left to the Council to maintain.

Therefore, I think at first is not germane to Section 6, and secondly, that that power has been vested to the Council.

MR. HANNAH: Chair would rule that the amendment is not germane, and, therefore, would pass if there's no objection. Is there an objection? Is there an objection?

Hearing none, language will be removed. Mr. Keen, you are identified.

MR. KEEN, JR.: Thank you.

MR. DOWTY: I have an amendment to Mr. Keen's.

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

MR. DOWTY: Thank you. Delegate Dowty, again. Mr. Chairman, this morning Delegate Crawford has brought to the attention of myself and Delegate Smith that if we are to define in this section all circumstances under which executive sessions may be held. It is the will of the Nation that that be made a constitutional provision, then there is certainly one provision that needs to be added.

And, therefore, I propose an amendment as to the original language to add a subparagraph D, which shall read as follows: "Confidential communications between the Council and its attorney concerning a pending investigation, claim, or action, if the Council with the advice of its attorney determines that the disclosure will seriously impair the ability of the Council to process the claim or conduct a pending investigation, litigation or proceeding in the interest of the citizens of this Nation."

And that is in order to provide, Mr. Chairman, that the Council may consult in executive session with its attorney about those pending matters. It is taken, if the Chair please, from the Oklahoma model language of open meetings.

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

THE DELEGATES: Second.

MR. HANNAH: And, sir, if you would approach the scribe with the amendment, it would be inserted on the screen.

And the floor is open for debate, and Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, I would offer a friendly amendment to Mr. Dowty. In past events, and I sure hate to keep bringing up the last two or three years, but we all live by experience. And in past experience with this Council, we have seen a minority of Council members meeting with attorneys and calling it official business of the Cherokee Nation.

This amendment is of great concern to me because you have had in the recent past nine Council members meeting with an attorney, and then proceeding to impeach the judicial branch of the Cherokee Nation.

And so my friendly amendment would be in whatever wording that it might take to require a quorum of Council members to meet the test of this section that he's adding.

MR. BILL BAKER: How many was in that quorum?

MR. CORNSILK: We've already decided what a quorum is, Mr. Baker.

MR. HANNAH: Delegates will be patient.

MR. CORNSILK: Mr. Chairman, I withdraw.

MR. HANNAH: Thank you, Mr. Cornsilk.

MS. MEREDITH: Mr. Chairman. Could I offer or suggest a friendly amendment?

MR. HANNAH: I would ask the gentle lady to wait just a moment. I think it would serve us all well if we, in fact, had the language of the amendment before us before we started tinkering with it.

While we are finishing with the scribe, I would see the hands of all delegates who will be joining us for lunch today. Dr. Gourd has made arrangements for us to take lunch in the University center. We will be doing so in three different locations there. Do we have to divide up by any particular group?

MR. GOURD: The Chairman can appoint the groups.

MR. HANNAH: Chair will appoint those groups.

MR. GOURD: And have fun with that.

MR. HANNAH: And have fun with it. The Chair will see the hands of those who will be joining us for lunch today.

Mr. Secretary, you do such a wonderful job with counts, would you please count for us?

MR. UNDERWOOD: Why don't we do a negative count?

MR. HANNAH: Yeah, maybe it would be easier to say, who's not going to lunch? The Chair is absolutely amused that the delegates would somehow become choosy with regard to a free lunch.

MR. JOHN KEEN: If it's free, I'll be there.

MR. McDANIELS: I raised my hand up, but I just

remembered I need to go to Hastings at ten-thirty, so I will not be here.

MR. HANNAH: Okay, Calvin will not be joining us for lunch. Mr. Secretary, how many?

Sixty, Dr. Gourd.

And the amendment that is before you has been seconded, and the gentle lady from Oklahoma City is recognized, if she still chooses to be.

MS. MEREDITH: No. You can play with it.

MR. HANNAH: The Chair will play with nothing, ma'am. The floor is open for debate.

MS. MASTERS: Was the friendly amendment turned down -- scratch that.

MR. HANNAH: Mr. Poteete is recognized.

MR. POTEETE: I think that generally speaking, we need to be very careful to distinguish between -- first thing I want to point out, we're not subject to the open meeting law. The Tribal Council is a legislative body. Some people would have it situated so that a majority of the Council cannot be in the same room at the same time.

Now, if that was -- if we applied that same logic to the Oklahoma House of Representatives, you wouldn't be able to have a democratic caucus, because you would have a majority in there without the whole body being present.

We need to be very careful what we're doing here. This language, I'm afraid, is not going to set well. I think it's well intended, but it's not going to set well with the Cherokees out in the communities. When they say confidential communications, Council and attorney, first thing they want to know is what are you folks hiding up there at Tahlequah.

I think that the attorneys should be able to communicate with the Council members without having to be in formal session, and I would encourage you as we move through, don't do anything that you cannot, however deplorable you might feel like that some gathering was out here somewhere, you cannot prohibit a legislative body from convening itself or from gathering itself together informally to discuss legislation. You can't take any action on any legislation unless you're in session.

And I think that -- I'm not going to go into a session and adopt a bunch of legislation that you don't explain to the public why you're adopting it. If you do that, you do it at your peril because the constituents don't understand what you've done.

We can't control that, you all. That's the legislative process. Legislatures get together in the hall or over coffee at the cafe and make alliance. We can't control that with open meeting law, and we need to look real carefully at what we've got going up here.

It's probably not necessary. If you and an attorney want to communicate, you can go down to the coffee shop and communicate.

MR. HANNAH: Chair would entertain delegate in

support of the amendment. How rise you, Mr. Keen?

MR. JOHN KEEN: In support of the amendment.  
Delegate John Keen, Tahlequah -- I'm sorry, I live in Iowa. Born and raised in Tahlequah.

MR. HANNAH: Thank you, Mr. Keen, for clarification.

MR. JOHN KEEN: As I read this, I was trying to keep up with the scribe, and I thoroughly confused myself. As I understand it, Delegate Dowty, it seems to me that your intent would be to establish attorney/client privilege in executive sessions. And if I'm not correct, would you please explain author's intent on this?

MR. HANNAH: Delegate will address the Chair.

MR. DOWTY: I don't think this relates to -- particularly to attorney/client privilege. The privilege could be established without the necessity of being in session, I believe. The privilege could be established at a prior session of the open session of the Council in accepting the employment for a particular purpose of a particular attorney.

This would be a furtherance of the attorney/client privilege, I believe. And I remind the delegates that I present this on behalf of Delegate Crawford, who brought this up, and I think it's a legitimate concern. And, therefore, I have proposed the Oklahoma open meeting in this language.

MR. HANNAH: Mr. Keen, you yield the floor?

MR. JOHN KEEN: I yield the floor.

MR. HANNAH: Chair will entertain a delegate rising in opposition to the amendment.

MR. CORNSILK: Mr. Chairman.

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

MR. CORNSILK: Delegate Cornsilk. I believe that this section of the Constitution applies to the people's ability to enter into and participate in the legislative branch of government, and this amendment outlines what it's doing is simply closing access to records and making -- splitting that log and letting the attorneys feed at that trough, so I would oppose this amendment.

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

MR. KEEN, JR.: Thank you, Mr. Chairman. Ralph Keen, Jr., and I rise in opposition to this amendment. Not because of I think the intent that it's trying to accomplish, but rather the language of itself. I feel the language is vague and unclear. Whether or not it's intention is to establish a special privilege for Council members or an extension of the attorney/client privilege, I'm really not clear on that. So I'm in opposition of this language.

MR. HANNAH: Dr. Gourd, you're recognized.

MR. GOURD: Mr. Chairman, I rise -- Charles Gourd. I rise in favor of this. I think the operative words for this whole phrase is at the conclusion of the sentence, "in the

interest of the citizens of this Nation."

I do not read this as something to create attorney/client privilege on behalf of the Council or anything else, other than directing that when this action occurs that the protections are afforded in the interest of the citizens of the Nation.

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

MR. HEMBREE: Move previous question on the amendment.

MR. HANNAH: Question's been called; is there a second?

THE DELEGATES: Second.

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

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: Question is before us. The amendment from Delegate Dowty indicates, "D, Confidential communications between the Council and its attorney concerning opinion, investigation, claim or action if the Council with the advice of its attorney determine that disclosure will seriously impair the ability of the Council to process the claim or conduct a pending investigation, litigation or proceeding in the interest of the citizens of this Nation."

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

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And the Chair declares that the amendment failed, and Mr. Keen, you are recognized.

MR. KEEN, JR.: The language will be struck.

MR. DOWTY: Standing vote.

MR. HANNAH: Standing vote has been called for.

Mr. Secretary will mount to the chamber, and all of those in favor of the verbiage, please stand.

MR. UNDERWOOD: Mr. Chairman, would you state the cause of the vote?

MR. HANNAH: I beg your pardon, Mr. Secretary?

MR. UNDERWOOD: Tell us what the vote is.

MR. HANNAH: What the vote is. What we are voting on right now is that we are going to include the language that has been highlighted on the screen. You vote yes, the language stays in; you vote no, it goes out.

MR. UNDERWOOD: Thank you. The vote is twenty-one.

MR. HANNAH: Twenty-one in favor. And all of those opposed, please stand.

MR. UNDERWOOD: Thirty-seven.

MR. HANNAH: Twenty-one yes; thirty-seven no.

Motion is defeated. Language is withdrawn.

And Mr. Hembree, you are recognized.

MR. HEMBREE: Mr. Chairman, Delegate Hembree. I move -- I call the question on Article --

MR. HANNAH: Question being called on this article. Is there a second?

THE DELEGATES: Second.

MS. MASTERS: Section 6, not Article VI.

MR. HANNAH: Thank you very much. Section 6. Question has been called on Section 6, and there is a second, and all of those in favor signify by saying "aye".

THE DELEGATES: Aye.

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

And the section that is before us: "Section 6. All meetings of the Council and its committee shall be open to the public except, A, when the discussion shall concern employment, retention or discharge of personnel. B, when the question of moral turpitude of any citizen is discussed, and C, when the decorum of the audience shall prejudice orderly administration of business. In the event that consideration of a subject shall take place in the executive session, the vote shall take place in an open meeting."

Voting yes for this will approve the language; voting no, obviously, will not approve.

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

THE DELEGATES: Aye.

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

And the Chair declares that the language is approved and Section 6 is complete.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Moving ahead to Section 7. The language appearing in this: "The Council shall have the power to establish laws, which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution. The style of all bills shall be enacted by the Cherokee Nation. The style of all resolutions shall be, be it resolved by the Cherokee Nation."

MS. MASTERS: Second.

MR. KEEN, JR.: You didn't --

MR. HANNAH: Not too hasty.

MR. KEEN, JR.: The language -- the original language had some redactions by the Commission, and they appear there in footnote 16. The language that has been stricken out is, "Laws or enactments which are required by federal statute to be approved shall be transmitted immediately upon enactment provided by Section 11 of this article, to the President of the United States or his authorized representative."

That language has been stricken. The motion is that this body approve the language as submitted in the revised version under Article VII.

MR. HANNAH: There's a motion before us, and is

there a second?

MS. MASTERS: Second.

MR. HANNAH: Floor is open for debate. Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, I would offer a friendly amendment. Section 8 is germane to this section, and there's no need to have it as a separate section. And if we might add those together, I think it would move us along in prompt order.

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

MR. KEEN JR.: Well, I don't disagree with Mr. Cornsilk, but the -- I'm not sure. I'm close on this one. I really don't see a need to consolidate the language in the two sections, and so without having a real reason to, I would poll the commissioners on what their feeling is on it. I think I would be opposed to consolidate the language.

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

MR. UNDERWOOD: No need to; I oppose.

MR. HANNAH: Mr. Gourd. Mr. Gourd. Ms. Coon.

Ms. Coon.

MS. COON: Yes.

MR. HANNAH: Mr. Cornsilk has offered a friendly amendment on what we have proposed to collapse Section 7 and Section 8. Section 8 is one sentence or two separate; it is effectively what the 1975 Constitution was. We're polling the Commission, Mr. Keen has said no; Mr. Underwood has said no, and what do you say?

MS. COON: I say combine them.

MR. HANNAH: You say to combine them. And Mr. Hannah says no. And as Vice-Chairman of the Commission, that would be three to one, therefore, it would be no. Your friendly amendment is not accepted. What course of action do you wish to take?

MR. CORNSILK: Mr. Chairman, I would offer that as a motion.

MR. HANNAH: Motion's on the floor. Is there a second?

Is there a second? Hearing no second, the amendment dies. And Mr. Keen.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: I would challenge that.

MR. HANNAH: We have a second.

MR. HEMBREE: A last second.

MR. HANNAH: There is a second. Just one moment here, folks.

MR. GUNTER: Point of order.

MR. HANNAH: Thank you very much, Mr. Gunter. What we have at this point is Mr. Keen with his presentation for Section 7. We have now an amendment that has been proposed by Mr. Cornsilk that would migrate Section 8 into Section 7, and it has been seconded. And the floor is open for debate.

MR. CORNSILK: Mr. Chairman, I'd like to address

my reasons for that.

MR. HANNAH: You may.

MR. JOHN KEEN: Point of order.

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

MR. JOHN KEEN: Delegate John Keen. Ask the Chair to rule by parliamentary assistance if it is germane.

MR. HANNAH: Mr. Cornsilk, you're fine, sir. Take your seat. Mr. Cornsilk, proceed.

MR. CORNSILK: Thank you very much. My reasoning for this is that the Constitution is quite lengthy. We have added sections that are quite wordy, and any opportunity that we can take to make the Constitution shorter will be of benefit to the Cherokee people.

MR. HANNAH: Thank you, Mr. Cornsilk. Debate is open. And how rise you, young man?

MR. HEMBREE: Mr. Chairman, Delegate Hembree. I move that we limit debate on this matter to two speakers pro, two speakers con, three minutes apiece.

THE DELEGATES: Second.

MR. HANNAH: Two, and three, and a second. Those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And the debate is open. And the Chair would entertain speakers in --

MR. SMITH: In opposition.

MR. HANNAH: In opposition.

MR. SMITH: We have a 1975 Constitution. Unless I've missed something, we haven't agreed to substitute in total a revised Constitution. It's still a decision of the convention to propose separate amendments to the Cherokee people.

Every time we consolidate or change numbers, it creates more and more confusion. It's my proposition we keep the numbering schedule, the titles, and the subtitles, the sections as consistent with the original Constitution as possible to eliminate any type of confusion.

Further, there is different subject matters. Section 8 is based on ex-post facto. No. 7 deals with the ability to pass laws. We create confusion when we start changing sections. I object.

MR. WHEELER: Point of order.

MR. HANNAH: Point of order.

MR. WHEELER: Earlier we -- George Wheeler. Earlier we decided to examine these section by section. We are now in Section 7. We have not yet moved to Section 8.

MR. HANNAH: Chair has ruled that the debate has taken place, and it is germane to the discussion, and we are in debate. Do you rise in favor or in opposition?

MS. MASTERS: I'm in opposition if there's anyone in favor.

MR. HANNAH: Are there any speakers that would

rise in favor? Hearing none, you would be heard.

MS. MASTERS: I believe this should be dealt as two different sections. I believe it deals with two different topics, and this clarifies exactly. If when we submit our new Constitution to the people and they look through and they say, "What happened to Section 8," we'll say, "Well, it's subsumed in another section; I'll help you find it." I believe it should stay there clearly delineated, and its purpose is served best by being there.

MR. HANNAH: Chair would entertain any other speakers. Seeing none, hearing no opposition, the question is called for to close the debate and move to the question with regard to Mr. Cornsilk's amendment to migrate Section 8 into Section 7.

Voting yes would obviously migrate section 8 into Section 7; voting no would leave them separate.

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

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: Chair declares that the motion did not pass. And Mr. Keen, you are recognized. I assume debate is still open on Section 7.

MR. KEEN, JR.: Section 7 is still on the floor.

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

MR. HEMBREE: Thank you, Mr. Chairman, Delegate Hembree. Ladies and gentlemen, if we can't bring Section 7 to a quick close, we're going to be here forever. In that regard, I would move previous question on Section 7.

MR. HANNAH: Question is moved. Is there a second?

THE DELEGATES: Second.

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

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no".

Question is before us. And that is for Section 7. "The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution. The style of all bills shall be, be it enacted by the Cherokee Nation. The style of all resolution shall be, be it is resolved by the Cherokee Nation."

Voting for obviously would be inclusive of this section, approving it; voting no would bring the language down. All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

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

Motion carries and the language is added. Mr. Keen, you're recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. We move to Section 8. The language as it appears in the 1975 Constitution has not been changed from the revised version submitted

by the Commission. That language is: "No law passed by the Council shall have retroactive effect or operation." And my motion is that this body accept this language by acclamation.

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

THE DELEGATES: Second.

MR. HANNAH: Accepted by acclamation. Mr. Keen, you are recognized.

MR. KEEN, JR.: Section 9. Mr. Chairman. The language in Section 9 has been amended somewhat. I will read the language.

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

And the language and in footnote 17 explains the revisions. The language, "the power of removal has been replaced" with, "the power to remove elected and appointed officials in the Cherokee Nation."

The language, "Nothing herein is intended to abrogate or limit the authority of the President of the United States or any person of the agency to which the President or Congress of the United States shall delegate authority"; therefore, to remove "the Principal Chief or his subordinates" has been omitted. There's also been a numbering change on the article.

This involves two separate issues, obviously. The first issue is the power of the Council to remove -- or to better clarify what powers of removal they have. Under the previous language, there was some question as to whether they could in fact remove appointed officials, and this language is intended to clarify that question.

And the, of course, second subsequent changes in removal of the language which gives the President or his appointed designee the authority to remove our Principal Chief or his subordinates.

My motion is that this language be approved by this body as submitted.

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

THE DELEGATES: Second.

MR. HANNAH: There is a second. Floor is open for debate. Mr. Scott, you're recognized. My good friend from Grove, please stand up and --

MR. CORNSILK: I believe my point of order supersedes.

MR. HANNAH: I'm sorry, Mr. Cornsilk, I did not hear you. You are recognized.

MR. CORNSILK: Delegate Cornsilk. Mr. Keen, my only question is that, and this is just something for us to ponder.

Is it appropriate for us to give the power of removal of the Principal Chief's subordinates to the Council?

MR. KEEN, JR.: Mr. Cornsilk, under the language

that we propose, "the Council shall have the power to remove elected and appointed officials," and that power would be limited to that. So the question that you raise is what is an appointed official?

I'm not sure if there's a clear explanation of that elsewhere in the document, but a very generally accepted definition is one who has been appointed and confirmed by the legislature. Is that the question you raised?

MR. CORNSILK: That was it.

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

MR. SCOTT: I offer a friendly amendment to delete the words, "elected and" so that it shall read "the power and to remove appointed officials."

My reasoning for this is that we have the recall provision in there to elect the -- to remove the elected officials, and I would hate to see it put in the Constitution that we have the Council get into cat fights trying to remove each other.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Mr. Chairman, I would not be inclined to accept that as a friendly amendment. It obviously directly affects the balance of powers we have of the ability of the Council to remove elected officials. And so I will be disinclined to accept that, but I would poll the commissioners.

MR. HANNAH: Mr. Underwood.

MR. UNDERWOOD: I agree with him.

MR. HANNAH: Mr. Keen answered no. Mr. Gourd, no. And would you assist and ask Ms. Coon what her vote would be? No. And Mr. Hannah says no.

The Manager will not accept your friendly amendment. And what is your course of action, Mr. Scott? Do you wish to place it in the form of a motion or do you stand down?

MR. SCOTT: I'll propose it as a motion then.

MR. HANNAH: Please stand, sir, and let us hear your course of action. Please turn the microphone on, Mr. Scott. Thank you, Partner, you're doing fine.

MR. SCOTT: Is it on now?

MR. HANNAH: No, it's not. It is now.

MR. SCOTT: I would propose this as a motion then.

MR. HANNAH: Motion is on the floor to amend Section 9. We're moving the words "elected and." Is there a second?

Hearing no second, the motion dies. Mr. Hembree, you are recognized.

MR. HEMBREE: Delegate Hembree, thank you, Mr. Chairman. Mr. Keen and other members of the Commission, I have a question. Could you explain to me more on the reasoning for the deletion of the language that was deleted in the original Section 9, and would this or would this not create a BIA approval problem?

MR. KEEN, JR.: I'd be happy to speak to that. One of the issues that were raised numerous times, both at our

public hearings and in our debate, was this ability of the President to approve our laws, remove our President. And the clear consensus, unanimous consensus almost, was that we are a sovereign people and the President of the United States, we don't need his approval for our laws, and he certainly should not have the authority to remove our Principal Chief.

And so in conformance with that principle, there are several -- or in fact there are multiple areas in our Constitution where language must be stricken to carry out that cleansing of our document of that power. And this is probably, I think, the first time that we have seen this.

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

MR. GOURD: Thank you, Mr. Chairman. Charles Gourd. I think it might be helpful at this point for clarification, if I could just briefly reference; you can go to Page 17. It references Article X.

MR. HANNAH: We're going to Page 17 of the revised.

MR. GOURD: Yes.

MR. HANNAH: 17 of the revised.

MR. GOURD: On removal from office. The intent and purpose of that section will be to define when we get there what this power means and when it can be put into place. It's not there in a vacuum for present discussion, but that section will define the limits and scope and authority of that power to remove.

So, you know, that statement is not made in a vacuum. It does have definition, which we can come up with and define at the will of the delegates at a later time. I think that's important to note, and that's why we have the footnote to it.

So that as we work on these things, they're not in a vacuum. Each time they reference something else, let's please make sure we review that in the context of the debate. Thank you.

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

MR. SMITH: I stand in favor of the response to the delegate's question about why this information -- this language was in our 1975 Constitution. As part of the Act, the Five Tribes Act of 1906, congress put in federal legislation that the United States President could, upon death, disability, or such, replace and remove the Principal Chief of the Cherokee Nation.

In some subsequent court cases in 1970 and 1978, federal cases, the courts have ruled that the Oklahoma Indian Welfare Act repealed by implication the 1906 Five Tribes Act.

Therefore, the cleansing as the Commission has suggested and proposed is certainly legitimate and certainly underscores the exercise and sovereignty that we are entitled to.

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

MR. CORNSILK: Mr. Chairman, I would reiterate what Mr. Smith said, and I would also add that recently Bob Farris, who is the former director of Tribal operations through the Bureau

of Indian Affairs in Washington D.C. has stated that it is the current thinking in Washington that this sort of language be removed.

MR. HANNAH: Mr. Hembree.

MR. HEMBREE: Move previous question.

MR. HANNAH: Question's been moved; is there a second?

THE DELEGATES: Second.

MR. HANNAH: And all of those in favor, please signify by saying "aye." And those opposed said "no."

And the question before us at this time is Section 9. "The Council shall have the power to remove elected and appointed officials in the Cherokee Nation, and said removal must be conducted in accordance with Article X of this Constitution."

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

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And the language is approved and entered. Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. Moving ahead to Section 10. The language of Section 10 as it appears in the revised version of the Constitution submitted by the Commission is identical with one deletion, and that deletion appears in footnote 18. I'm not sure if we can get that up there or not.

MR. HOOK: Mr. Chairman, point of privilege.

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

MR. HOOK: Mr. McCreary and myself would like to request, make a motion that an additional section be included or inserted before this section. It might be appropriate to address that before preceding. I'm not sure of the appropriateness of that.

If that is in fact appropriate, we would like to request also a five-minute recess to caucus with others who would like to address the issue of mandatory attendance of Council meetings.

MR. HANNAH: The motion is before us for a five-minute recess?

MR. HOOK: That is correct.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: And there is a second. Those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no." We're at recess for five minutes.

(recess taken)

MR. HANNAH: Dr. Hook, you're recognized.

MR. HOOK: As far as our -- tradition and history as far back as we can go, our government has been routed in consensus and discussion in coming to decision based on the articulation of issues, discussion of those issues.

One of the traditional ways of showing disagreement with

something is to simply step back from it, step away from it, and I acknowledge that as a traditional manner of making a statement. However, we have also been a very adaptable people. We have been able to move into various forms and stations in life and accommodate different issues in different ways, and I think today in the form of government as we exist today, it's incumbent on us that our leadership, when it meets, all be there in order to be a truly representative body. We can no longer separate off and become other communities, other Cherokee entities outside because we are a single nation.

To that end, we propose the additional section, and we preclude this by stating that there is absolutely no culpability or blame in any way, shape or form associated with this proposed additional section. It is simply an attempt to encourage successful government.

Mr. Chairman, I move that the following be added as a separate section: "Section 10. The Council shall compel its members to attend all regularly scheduled duly called special or emergency meetings of the Council to do the business of the Cherokee Nation.

Should the member or members fail to attend three or more consecutive meetings without due cause, the Council, after holding either regular or special meetings, shall cause the member or members to forfeit their monthly stipend for the period of their absence or be removed in accordance with Article X of this Constitution, and their seat be declared vacant."

MR. HANNAH: Dr. Hook, if you will approach the scribe, we'll have it entered into the screen. Is there a second?

MR. SMITH: Point of information.

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

MR. SMITH: It was my understanding the format of this convention was to proceed through the '75 Constitution section by section. Section 10 of the 1975 Constitution provides, "Members of the Council and executive officers shall be bound by oath --" and goes on and on. That's not before the convention at this time. I object. We've violated the sequence that we've bound ourselves to.

MR. HANNAH: Your objection is sustained. I would ask the delegates to be seated. Mr. Keen, you are recognized.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk, you rise on point of order?

MR. CORNSILK: Point of order. Not that I support that amendment, but I want to get a clarification on Mr. Smith's -- his understanding of what we're doing here. Are we simply going to go along and only amend the sections that are found in the '75 Constitution and not add anything? Is that what we're doing?

MR. GOURD: That's what he's saying.

MR. CORNSILK: That's what he is saying, but

that's not what I understood we are doing. Because if we need to add a section or an entire article, he's limiting us to --

DELEGATE: No, he's not.

MR. CORNSILK: Well, I don't just feel that way. What I'm up here is asking for information.

MR. KEEN, JR.: If I may respond.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: We've agreed to go through this document by article and section. At the end of each section, we call for a vote for the approval of that entire section.

I feel like under the seriatim process, it would be appropriate for him to raise his amendment once we get through all of the existing sections before we approve the article. That would be my thought on it. Madam Parliamentarian, do you have a thought on that?

If he would just hold his amendment until we get through the existing sections without attempting to insert new sections, I think it would be appropriate.

MR. HANNAH: The Chair will clarify for the good delegates, this is no means a quashing from the Chair of your amendment. Simply want to keep this for the kind delegate raises it with regard to the sequence that we have been moving through, and I would wish to continue to do that, once we have it completed, the review of our section. Since this is a total new section and the Chair has no knowledge of what your information was and could not rule on it until hearing it. You're very kind to be seated.

Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. I was in the process of presenting Section 10 to this body, and the language appearing in Section 10 is identical to that of the original Constitution with the following exceptions, and this appears under footnote 18.

The former Section 10 stated: "Members of the Council and all executive officers shall be bound by oath provided in Article 12 to support the Constitution of the Cherokee Nation, the Constitution of the United States of America, do everything within the individual's power to promote the culture, heritage, and traditions of the Cherokee Nation."

"And to perform the duties of their respective offices with fidelity" has been omitted as being cumulative with the oath requirement in Article 12.

And ladies and gentlemen, this is just simply really almost a matter of style of attempting to keep our document concise and simple as possible without having needless repetitive language.

We have an Article XII that clearly addresses the oath of office of all officers within the Cherokee Nation, and the Commission just saw no need to repeat this language in every different article.

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

DELEGATE: Second.

MR. HANNAH: There is a second; floor is open for debate. Mr. Baker, you are recognized.

MR. JACK BAKER: Point of clarification. Jack Baker, delegate from Chewey. Any enactment -- in the last, says that, "Any enactment shall not be returned by the Principal Chief within five days, Sundays and holidays accepted, after it shall have been presented to him or her, the same shall be law in like manner as he or she explains it, unless the Council shall by adjournment prevent its return, in which case it shall become the law without the approval of the Principal Chief."

And then it says, "No enactment shall become law after the final adjournment of Council, unless approved by the Principal Chief within fifteen days after such adjournment."

I don't understand this because the one says, "it shall become law without the approval of the Principal Chief," and the next one says, "it shall not become law unless approved by the Principal Chief."

MR. HANNAH: The question is raised. Mr. Keen, would you clarify?

MR. KEEN, JR.: Well, let me state this, first of all, the issues that you raised were not raised in the public hearings, and they were not part of the discussion had by the Commission, so, therefore, we never really took up this issue since you have raised it.

Obviously, this body has that ability to look at that language at this time. And as far as the interpretation of it, there is any number of people that could probably interpret it as well or better than I can.

So I would be very leary to attempt to offer an interpretation for this body at this time.

MR. HANNAH: Thank you, Mr. Keen. Mr. Baker, your point is raised and -- sorry.

MR. JACK BAKER: Do any of the Council members -- does it become law?

MR. HANNAH: Mr. Poteete, do you rise to assist with clarification?

MR. POTEETE: Well, somewhat.

MR. HANNAH: I will either need you to do it or not.

MR. POTEETE: I don't have great confidence. I might clarify that the language doesn't match the way we conduct business. It contemplates an ongoing session, such as the state legislature back home. We conduct our business month-to-month.

We've already passed over in one section some language that didn't hurt anything. This language probably needs some clarification. I would encourage a group of learned attorneys to step outside and clean this up to be consistent with the way we operate today before we go on because it doesn't apply to anything.

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

MS. MASTERS: We're through with Mr. Baker?

Okay.

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

MS. MASTERS: I rise to oppose the deletion of the lapping that is referred in footnote eighteen due to the fact that the language may be redundant and found in the oath. I think that it is appropriate that we have "within the duties" spelled out that our elected official, quote, do everything within their individual power to promote the culture, heritage and tradition of the Cherokee Nation and to perform their duties of their respective offices with fidelity.

I believe that that language, "in their duties," is expected to be there by the people of the Cherokee Nation despite the fact that it appears the within oath. That having it within the body of our Constitution is a very important component.

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

MR. SMITH: We need to preserve the option at the end of this convention to say we want a revised Constitution as this Commission has proposed and the format tends to lean toward. But we need to preserve the option of saying, "No, we're going to propose a series of amendments to the existing Constitution."

And the only logical way to preserve that, those options, is to keep the sections so they're consistent with the old Constitution, and even if it is a little bit redundant at this point, we need to keep it in here for clarity and for presentation of the people.

If we can't keep the numbering straight by coming down to number -- following the original numbering, then the constituency will never do so.

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

MR. HEMBREE: Personal point of information, Mr. Chairman. Has there been an amendment made?

MR. HANNAH: No, sir.

MR. HEMBREE: Mr. Chairman, I move to table Article V, Section 10. I would agree with Mr. Baker that that language is confusing, if not contradictory. I think it would be a much speedier process if some people got together and try to work on that language instead of trying to do it here on the floor. So I would move to table that.

DELEGATE: Second.

MR. HANNAH: Motion to table, and has been seconded. All those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. SMITH: Point of information.

MR. HANNAH: Point of information is recognized.

MR. SMITH: We're going to have to keep something straight because now we've got two Section 10s. We've got the Constitution Section 10, then we've got your revised Constitution Section 10. We haven't taken this off the table --

MR. HEMBREE: Mr. Chairman.

MR. HANNAH: Mr. Hembree.

MR. HEMBREE: My motion is to table the motion on the floor.

MR. HANNAH: And that is correct, and it has been seconded, and those in favor please signify by saying "aye."

THE DELEGATES: Aye.

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

And the item is taken to the table. Mr. Keen -- I'm sorry, Mr. Smith, you are recognized.

MR. SMITH: I move the Chair to adopt the convention to keep these two straight because we are now entering into a numbering problem as to if we're following the Constitution or following your revised Constitution.

MR. HANNAH: Mr. Keen, can you help clarify for us there?

MR. KEEN, JR.: Well, I hope so.

MR. HANNAH: I do, too.

MR. KEEN, JR.: Mr. Smith, when we adopted the agenda the other day, the agenda clearly states that we are going to proceed through this revised document and compare it to the original version.

Now, I understand your concern about the numbering problems, and hopefully I can try to keep that straight as we go through that. And we can obviously keep the language from the original. We can keep that straight up on the screen, then that can help us. Does that help resolve your concerns?

MR. SMITH: No, it doesn't. We have a fundamental difference here. I thought the delegation, and especially I were proceeding that we're examining our 1975 Constitution section by section, and as we come to that section, if anybody has a proposal they can make it.

And we have by routine heard the Commission's proposal first as we examined our '75 Constitution. This is not an exercise, as I understand it, of taking your revised Constitution and editing it. We're not here to rubber stamp or to edit your revised Constitution. We're here to examine and then accept proposals for any amendments, changes, deletions or omissions.

DELEGATE: Second.

MR. JOHN KEEN: Point of order.

MR. HANNAH: Just a moment. There's not a motion on the floor. Mr. Keen, you are recognized.

MR. JOHN KEEN: John Keen, delegate. As I understand, we had a motion early in our first session to review the Commission's proposed revised Constitution in seriatim, and review that in contrast with the existing '76 Constitution.

So as I understand it, the way we're operating is correct. And when we are, Mr. Smith, I submit to you, revising the '76 Constitution, as we are reviewing the Commission's proposed Constitution. And any amendments would be to the '76 Constitution

in contrast to the Commission's revised Constitution. I believe that's where we're at.

MR. HANNAH: Chapman-Plumb, you're recognized.

MS. CHAPMAN-PLUMB: We're here to have a Constitutional Convention with regard to -- we're not having a revised Constitution Constitutional Convention. We're having a Constitutional Convention with regard to amendments to the existing Constitution. The only place that you can start in that event is the existing Constitution.

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

MR. CORNSILK: Mr. Chairman, I would make a motion to table any suggestions on Sections 10 and 11 of the 1975 Constitution, hoping that that would resolve this and move us on.

DELEGATE: Second.

MR. RUTLEDGE: Point of information.

MR. HANNAH: Yes, sir.

MR. RUTLEDGE: Would you please ask the kind delegate why Section 11?

MR. HANNAH: And I'll do that, and also pointing out that we have already placed Section 10 on the table. Mr. Cornsilk.

MR. CORNSILK: Mr. Chairman, you placed the motion that was before us, which is the convention's proposed amendment, and we still have the 1975 version that is sitting over here that we are in confusion as to whether we're talking about it or talking about this one. And I --

MR. HANNAH: The Chair would clarify that the order of the day is that we are reviewing the revised Constitution, and that is the motion that was introduced by Mr. Keen and --

MR. CORNSILK: Mr. Chairman, I withdraw.

MR. HANNAH: Thank you, sir.

MR. HEMBREE: Point of information or clarification, sir.

MR. HANNAH: Mr. Hembree.

MR. HEMBREE: Thank you, Mr. Chairman. I would agree that what we have done at the beginning of this convention was agreed to go through the revised Constitution as presented by seriatim. We have moved to table the section, and that is tabled that Mr. Keen had introduced.

What I think at this point, according to our rules, wouldn't it be appropriate at this time if anyone had any sections they wanted to add to Article V, it would be appropriate at this time for them to make that motion?

MR. HANNAH: I believe that it would not be appropriate in that we still have Section 11 to review.

MR. KEEN, JR.: 12 and 13 as well.

MR. HEMBREE: You are correct, and I stand --

MR. HANNAH: That's quite all right. It's enjoyable for the Chair to actually sort of know what's gone on here from time to time.

Mr. Keen, you are recognized.

MR. KEEN, JR.: As I understand it, we have tabled Section 10 of the revised version, and we're now looking at Section 11. So if you'll call that up, and this is a new section, it would be a new addition to the Constitution compared to the '75 version.

Mr. Chairman, Section 11, as proposed by the commission reads as such: "The Council shall establish a continuing system of permanent publication for all laws of the Cherokee Nation and judicial opinions of the highest appellate court. The system shall provide for regular updating, indexing, and digesting, which shall be a public record at all times."

And the rationale for this recommendation is largely driven by myself and other practitioners of the Cherokee Bar and the inconsistent manner in which the legislature, even though they've made attempts in the past, mainly because of the efforts of Mr. Smith and others to codify our laws and keep them updated.

But yet that system has not been consistent and certainly not been updated. The current version we have has not been updated since 1994. On the other side on our judicial opinions, our court does publish written opinions. As a matter of practice, those opinions are kept on file at the court house.

But there's no uniform system publication where other members of the Bar or citizens, for that matter, can access those rulings of the court. And this is very important in our legal process. We need -- you know, it's pretty obvious that you have to be able to find the law in order to follow it, and, of course, enforce it in a court of law.

So that is the rationale for this proposed addition. And my motion is that this body accept this language.

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

THE DELEGATES: Second.

MR. HANNAH: There's a second, and we're open for debate. Mr. Rutledge, you're recognized.

MR. RUTLEDGE: I have an amendment to this.

MR. HANNAH: Mr. Rutledge, would you read your amendment, please?

MR. RUTLEDGE: I would move to amend Section 11 to include the following language at the end of the paragraph as it is now, to read: "The text of all laws, resolutions, judicial opinions, orders, and all other governmental publications except those by government-owned commercial entities shall be in public domain and free from encumbrances against use by citizens.

This shall not constrain the government from copyrighting other aspects of government publications except that the citizens shall always have license for personal use of the copyrighted work without notice or fee."

MR. HANNAH: Mr. Rutledge, is that your amendment?

MR. RUTLEDGE: That's my amendment, except "licenses" should be singular form. One license to all citizens.

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second, and the floor is open for debate. Mr. Poteete, you are recognized.

MR. POTEETE: May I speak in favor first?

MR. HANNAH: Yes, sir, you may.

MR. POTEETE: Public record means that all people -- the public can actually have access to the records. They can look at them in the governmental office, which is what I tried to do, at least in my practice.

What this basically does is it gives us the right to take the text and use it without having to seek permission from the government. In general, this is generally accepted in state and federal government, this states that in our Constitution it's in the public domain that we can use any text without seeking permission. Anyone can use it. It's fine.

Any other aspects can be copyrighted to prevent other people from using them. For instance, our seal could be copyrighted if you want. I'm not saying we should. But there are other things we can copyright and prevent others from using it, except that all citizens of the Nation will always have the right to use those items for their own personal use without having to give notice or fee to the government.

This also protects government-owned corporations in case, for instance, they want to put out a film or a book or something like that for profit, they are allowed to do so and copyright it and charge everyone without any problems. That would just open it up that we all have use.

The problem with this comes from West Publishing and other digesting entities of law, generally like to try and claim a copyright over everything. If they type it into their computer, they don't think that they have to copyright on all of it. This protects all of us from that happening. We can go ahead and use it without any problems.

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

MR. POTEETE: I think I just wanted to offer the information to the body. Just recently I've been visiting with Justice Viles, and we have a movement underfoot to submit the Tribe's court opinions and so forth to several services that will do this for us for free.

Probably the type of language that Mr. Rutledge is proposing would be necessary for us to do. I don't know if this rises to the -- I don't feel strongly one way or another, if this is a constitutional issue or a legislative one. But I think the delegates would be interested to know that we're underfoot to do this, but I don't know what we're going to do about the statutes and indexing and so forth.

MR. HANNAH: Ms. Masters.

MS. MASTERS: I rise in strong support of this motion. Our University has just spent about eight months on this. This is very cleanly stated, and this is becoming a greater and greater issue with telecommunication and protection of yourself and the work that you are about as a body of any type.

And I believe this is a constitutional issue. It does preserve all of those things that we are really concerned about and keeps them from going into other peoples' possession and power to control.

MR. HANNAH: Kind gentleman, you are recognized.

MR. CLARKE: William Clarke, the author of eighteen. I just wanted to remind you all of that.

MR. HANNAH: Thank you, sir, for reminding us that you were the author of the number eighteen.

MR. CLARKE: And I wanted to bring more joy to the Chair.

MR. HANNAH: Thank you very much, sir. The Chair is very appreciative.

MR. CLARKE: I have a need for a point of clarification from the author of this. It says the text of all laws, resolutions, and judicial opinions, orders, and all other governmental publications.

Is it your intent, sir, that this would also open up confidential case records of juvenile matters to be included, because if so, then I diametrically will speak against it.

MR. HANNAH: Mr. Rutledge.

MR. RUTLEDGE: My opinion is that the amendment itself as I'm proposing it would not do that. I don't believe the language above it would either. Those things are usually confidential. All we're doing here is saying that the text of government publications. Those generally are not government publications; they're government records.

MR. CLARKE: But the word "orders" is what -- because they are orders and they are from time to time opinions that are written in the charge of those.

MR. RUTLEDGE: I see your point, although I think the judicial system will always have the ability to seal records, regardless of this. It will depend on what we give them in their section when we get there.

MR. CLARKE: Okay.

MR. HANNAH: Thank you, gentlemen. Any other delegates rise -- and Tina, you are recognized.

MS. JORDAN: Just to offer a friendly amendment to Mr. Rutledge. I, too, share the concern. Mr. Clarke, you might want to consider there where you have "judicial opinions," putting a caveat, "except those sealed by co-provision." I believe that would take care of it.

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

MR. RUTLEDGE: I would -- (inaudible)

MS. JORDAN: That would even be better. I would defer to --

MR. HANNAH: Mr. Cornsilk.

MS. JORDAN: I think it -- let's see. Right after "orders," Mr. Rutledge, I would probably suggest that. I think that's on the second line at the end of line two. Because we certainly do want to keep all juvenile records confidential to protect those innocent children.

MR. RUTLEDGE: I think we -- I would be amenable to that if we can somehow tie judicial opinions and orders together and put that limit only on those. I'm not sure quite how to do that.

MS. JORDAN: And that would also include the adoption records that would be kept confidential.

MR. RUTLEDGE: Maybe also change between "judicial opinions," take the comma out and insert "and orders."

MR. SMITH: Could you not just put both of those exceptions in the same phrase where you have "except those by government owned entities"?

MR. HANNAH: Mr. Smith.

MR. RUTLEDGE: A good point. I think the only problem is that if we put it there, then government-owned publications can be changed by law, which is what we're wanting to prevent. I think judicial opinions and order are the only thing we need to limit in this case.

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

MR. RUTLEDGE: I'll accept it.

MR. HANNAH: There is an amendment on the floor, and is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second, and the floor is open for debate.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: Is it still appropriate to make a -- offer a friendly amendment?

MR. HANNAH: The Chair will allow such.

MR. CORNSILK: Okay.

MR. HANNAH: Mr. Rutledge, you will draw close.

MR. CORNSILK: Mr. Rutledge, I would offer this friendly amendment.

MR. HANNAH: Mr. Rutledge, you will draw close.

MR. CORNSILK: I'm offering you a friendly amendment. It has been my experience that once the laws of the Cherokee Nation have been published, the expense of publishing those laws has been too great to provide copies to -- well, what they said anyway -- to provide copies to the general public.

And I have not necessarily believed that argument, but they have made them available for sale at two hundred dollars for two sets of books. And I would offer this friendly amendment. "The

Council shall provide for the placement of at least one copy of the published laws and judicial opinions in at least one public location in the several districts."

MS. MASTERS: Point of clarification.

MR. HANNAH: Friendly amendment has been offered. Mr. Rutledge, what say you?

MR. RUTLEDGE: Although I'm not opposed to the idea, I don't want to attach it to my amendment.

MR. HANNAH: All right. It has not been accepted.

MR. CORNSILK: Mr. Chairman, I would reserve that as a motion.

MR. HANNAH: And there's a motion before us.

MS. MASTERS: Second.

MR. HANNAH: The floor is open for debate.

MS. MASTERS: I missed a couple of words, Mr. Cornsilk -- Delegate Cornsilk. Did you say in a public location in every district?

MR. CORNSILK: We'll get to it again. They do not want it.

MR. HANNAH: You did not move?

MR. CORNSILK: No, I didn't. There was already an amendment up there.

MR. HANNAH: Very true. Chair apologizes. So, let us be about the business then. Mr. Rutledge, you have your amendment before us; it has been seconded, and we are open for debate. Mr. Smith, you are recognized.

MR. SMITH: I would stand in opposition. What Mr. Rutledge proposes is proper and good, but appears that we've got Jim Crouch's hammer again, anything and everything is a nail.

I think that is appropriate and good language for statutory protection so our laws can become copyrighted by West Laws and such. Mr. Cornsilk's proposal is good and well and should be done, but those should be down on the level of legislation and laws.

Our Constitution needs to be simple, simple, simple. And for those reasons, I speak again.

MR. HANNAH: Thank you, Mr. Smith.

MR. RUTLEDGE: May I respond?

MR. HANNAH: No, you may not. Mr. Poteete.

MR. POTEETE: Well, I tend to concur with Mr. Smith, and I think that we can sponsor legislation like this. If it's the will of the body not to put this in, don't be too disappointed. We probably can get the Council to agree to some language like this.

MR. HANNAH: Any delegate rises in favor of the amendment? Mr. Littlejohn.

MR. LITTLEJOHN: Point of information, Mr. Chairman.

MR. HANNAH: Yes, sir.

MR. LITTLEJOHN: Would not the entire Section 11

be appropriate for legislative action, versus Constitution action?  
I mean, couldn't it be covered --

MR. HANNAH: Chair seeks assistance in the  
answer.

Mr. Keen, where we are at this point is your  
introduction; there's an amendment by Mr. Rutledge that you see in  
underline, and we are in debate with regard to the amendment. We  
have had two speakers in opposition, Mr. Smith rising, and Mr.  
Poteete saying that this verbiage does not rise to the level of  
constitutional language, and that in fact that these activities  
could be carried on at the legislative level or administration.

Mr. Littlejohn has taken to the floor with point of  
information to ask that of the entire section, that does this in  
fact need to be a part of the Constitution language or could it in  
fact be carried out through legislation. Is that correct, Mr.  
Littlejohn?

MR. LITTLEJOHN: Yes.

MR. HANNAH: And if the Chair is not correct in  
portrayal of where we are over the past ten minutes, he would  
entertain correction.

Hearing none --

MR. KEEN, JR.: In response to that point of  
information, normally I would agree with you, that this is certainly  
a legislative function, but we have to look at history over the last  
twenty - what five years, six years, even though that obligation has  
always been there, it has never been completely fulfilled.

And we, as a people, you know, this is a right that we  
have. If a government is going to compel us to conform to a law, we  
have to be able to assess that law and understand what it is. And  
in our government, for whatever reason, whether it be budgetary or  
whether it be other reasons, has thus far been inadequate in this  
area. And so this -- you know, that's why I was in favor of this,  
to make this a mandatory requirement, so to support the rights of  
the people.

MR. HANNAH: Mr. Littlejohn. Only because I  
assume you have a follow-up.

MR. LITTLEJOHN: To clarify my information, is  
there a difference between the amendment and the original proposal  
of Section 11, is what I -- I think that my point is that, you know  
-- I understand what you're saying and I'm trying to -- is there a  
difference between the amended portion or the original?

MR. HANNAH: Or the amendment. Mr. Keen.

MR. KEEN, JR.: In my view, I don't feel like  
there is a difference that it would -- all the proposed language  
would be contemplated in the language appearing under Section 11,  
then, that's on the floor.

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

MR. SMITH: In 1991, when we recodified our  
statutes, on our books is a provision that every time the  
legislature passes a law, they're supposed to run it on computer

disk. They're supposed to be indexed, updated, and published yearly. It hasn't been done so, so I can understand the constitutional desire -- the desire to include it on a constitutional level.

So the first part, even though it should be legislation followed, I can understand what supports the concern of making it constitutional proportions. I just question whether once we send that Constitutional mandate out, do you flush it out or leave it at the statutory level.

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

MR. POTEETE: Perhaps Mr. Smith's right about the first part of that. I think that there are two things to consider here. The reason that this hasn't been followed, the statutes already in place.

One is that there was such a low volume of court decisions until the last year or two. Now we have electronic means by which to publish things much more efficiently than we ever did before, so it's not going to be a problem.

Probably, however, I would agree with Chad that we need to adopt the first paragraph, leave the second paragraph to statutory enactment, and we ought to be able to get that worked out in the next few months. We also probably need to statutorily designate who's going to publish these statutes and what have you. I think we need to vote on this right now.

MR. HANNAH: Chair declares the debate closed without objection.

MR. RUTLEDGE: Point of information.

MR. HANNAH: Yes, sir.

MR. RUTLEDGE: I wasn't given a chance to respond to the kind gentleman's question.

MR. HANNAH: And you will have that chance at this time, sir, if you will keep your remarks brief.

MR. RUTLEDGE: I will. The question was, was the first part the same as the second part, and it is not. Under copyright law, public records are very, very different thing than public domain. Public record only gives the right to access; public domain means you have the right to take use and actually make a copy of.

MR. HANNAH: Thank you, Mr. Rutledge. Chair declares that the debate is closed. And the amendment that we have before us, you'll see in underlying text, amendment to Section 11 offered by Mr. Rutledge.

"The text of all laws, resolutions, judicial opinions, and orders, except otherwise protected by law, and all other governmental publications except those by government-owned entities, shall be in the public domain and free from encumbrances against use by citizens.

This shall not constrain the government from copyrighting other aspects of governmental publications, except the citizens shall always have license for personal use of this copyrighted work

without notice or fee."

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

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: Language stands. And we are back to Section 11. And Mr. Keen, you are recognized.

MR. KEEN, JR.: I yield to Mr. Cornsilk.

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

MR. CORNSILK: Mr. Chairman, I would offer this first in the form of a friendly amendment. Again, do I need to restate it, Ralph?

MR. KEEN, JR.: Yes, you do. I've lost track of it.

MR. CORNSILK: "The Council shall provide for the placement of at least one copy of the published laws and judicial opinions in at least one public location in the several districts" -- and I've added this, what I think what Billie's concern is -- "and other locations as provided by the law."

MR. KEEN, JR.: Sir, I would be disinclined to accept that for several reasons, but I would poll the Commissioners on accepting that.

MR. CORNSILK: That's okay, I withdraw and present it as a motion.

MR. HANNAH: Friendly amendment is withdrawn and it is a motion. Is there a second?

DELEGATE: Second.

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

MR. CORNSILK: Mr. Chairman, may I address this for a moment?

MR. HANNAH: Yes, sir, you may.

MR. CORNSILK: I have served in the capacity as an unpaid lay advocate for numerous Tribal employees before the Judicial Appeals Tribunal and for other persons wishing to adjudicate constitutional and legal questions before our highest court, and it has been very difficult for me and for those persons that I have assisted in their attempts to gain justice before our courts, to find and to gain access to Tribal laws.

We have two published books, the Qualified Laws of the Cherokee Nation that are located at the tribal complex and in the tribal council chambers, and we also have them available for purchase for two hundred dollars a copy at the Tribal Gift Shop.

They are not available in the local library where someone can go and do research for themselves. And it is my opinion that it incumbent upon the government of the Cherokee Nation to make those laws as easily accessible, as available as possible to its citizens. And that's all this would serve to do.

I understand Mr. Smith's concerns that it probably does

not under normal circumstances rise to the level of constitutional language, but, again, in the history of the Cherokee Nation over the last twenty-five years, we live by experiences that we've had, and our experience is that those laws are not widely available to the Cherokee people, and this would do that.

MR. HANNAH: Chair would entertain a delegate who would rise in opposition to the amendment before us.

Mr. Poteete, you're recognized.

MR. POTEETE: You all, I hesitate to rise to speak again, but what David is asking for is something that we ought to do. This ought to be out there, the people ought to be able to access it. But what's fixing to happen to us in the next three or four years, see, the reason there's not a lot of those spread around now is they are dreadfully expensive. They're published in a limited number.

Well, we could cure that right now, but what we're going to do is saddle ourself up if we put this in the Constitution for the next twenty years to have that expense. What's going to happen is that every public library and everywhere else you go to, you're going to be able to access this stuff electrically, and it's going to be a good deal cheaper to provide that sort of information out in the public domain.

The court opinions will be out there. They might not be annotated the way we want them exactly, to the lawyers benefit, but at any rate, we don't need to do this in the Constitution. We can take care of it statutorily, and then we can change that when it no longer justifies the expense.

I admire what David is trying to do for the people. I didn't know it was this big of a problem. We should have made some legislation and handled it previously.

MR. HANNAH: Chair will entertain a delegate speaking in favor of the amendment.

MR. RUTLEDGE: I would be in favor of this amendment. Actually, I think I was assuming that means this you have to buy a bound copy for each of the law libraries, and indeed, you don't.

It says you have to have one copy of the published laws and judicial opinions. It means you can take a Xerox copy and put them in the libraries, or you can put them on the Internet and make sure that each of the libraries has an Internet access and accomplish the same purpose under this.

MR. HANNAH: Any other delegate rise in favor of the amendment? Dr. Hook, you're recognized.

MR. HOOK: I agree that this is something that should have been in place, and it is unfortunate that it has to come to this level, but this is truly an extremely important provision, as the Native American Nation with the oldest tradition print mechanism for spreading information.

I have some concern about electronic. and I'm not sure if Mr. Cornsilk could clarify the issue of electric media here. But

I have some concern about that because I know a lot of people who are still very uncomfortable in using that and much prefer printed format to actually be able to analyze something.

MR. HANNAH: Mr. Cornsilk, would you give us a brief clarification of placing material electronically?

MR. CORNSILK: Mr. Chairman, my interpretation of the word "published" is hard copy, and I in no way intended for that to imply that the Internet would suffice. I understand the fear that many people have of the Internet. It took me a long time to get my dad over that fear. What my intent is that -- publish a hard copy.

MR. KEEN, JR.: Mr. Chairman.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: Ralph Keen, Jr. I rise in opposition to this amendment. And Mr. Cornsilk just made my point as to why you should not legislate in the Constitution. Published laws, different interpretation between two learned gentlemen here. Now you're putting our courts in that position somewhere down the road, and if they decide that published laws do in fact mean hard copy, then that would preclude them -- I mean, that would restrict the government, the legislative branch to that option.

So I feel like the spirit of this amendment is fine. I mean, I do agree with the spirit of it, but I also, I simply think it's a matter for the legislature to take up when they establish this continuing system.

MR. HANNAH: Starr-Scott, you're recognized.  
How do you rise?

MS. STARR-SCOTT: I rise in opposition to this. Not because I don't agree with it; I wholeheartedly do agree. I think any time we can do anything to keep the people informed, we should. This is the people's government. But I do believe it's a legislative matter that can be handled. And I'm very sorry, myself, I didn't know that it was so difficult for them to get copies of our laws and statutes.

MR. HANNAH: Thank you. Mr. Hembree, you're recognized.

MR. HEMBREE: Mr. Chairman, I rise in opposition to, I guess, the entirety of Section 11, to tell you the truth. It's a very good idea, and it's to be commended, but is it really a constitutional right? I don't think it should be.

MR. HANNAH: You rise in opposition?

MR. JOHN KEEN: Not germane as a topic.

MR. HANNAH: And the Chair will rule. You rise in opposition to the amendment before us?

MR. HEMBREE: The amendment, yes. And it would be germane to the entire section, but particularly to the amendment. The amendment itself is -- I would rise in opposition because, you know, that's going to be an additional expense. You've got to have a place, number one, a public place. What is that place? And you're going to have several copies everywhere.

But is that something we want in this Constitution? Like Delegate Smith stated, constitutions should not be overly burdensome with matters that -- in my opinion, this should be a law, and this should be a recommendation to the Council. So I'm in particular objection to the amendment and to the section altogether.

MR. HANNAH: Thank you, sir. Chair seeing no other debate, we'll --

MS. MASTERS: Call the question.

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

MR. CORNSILK: Mr. Chairman, I would withdraw my motion. If I could get a promise from Troy and Barbara that it would be brought up in the next Council meeting, that you do happen to attend.

MR. HANNAH: Chair will not officiate. Mr. Poteete, you're recognized.

MR. POTEETE: David, the commitment will be that we'll bring it through the committee at the earliest opportunity, which requires that we be able to access some legal expertise to word it or we depend on the community, which is what we've done in the past. One of the reasons things move no quicker than they do is because the Council has no more resources than they have.

MR. CORNSILK: I would ask the person who seconded my motion to please stand and join me in withdrawal.

MS. MASTERS: I agree, if David will give Troy the language that he's looking for.

MR. CORNSILK: I most certainly will. I withdraw.

MR. HANNAH: Thank you, language removed. And we are back to Mr. Rutledge's proposal. We are back to Section 11. The Chair momentarily --

MR. KEEN, JR.: I call the question.

MR. HANNAH: The question's been called. All of those in favor of calling the question.

THE DELEGATES: Aye.

MR. HANNAH: Those opposed.

The question before us is Section 11: "The Council shall establish a continuing system of permanent publication for all laws of the Cherokee Nation and judicial opinions of the highest appellate court. The system shall provide for regular updating, indexing, and digestion, and shall be of public record at all times.

The text of all laws, resolutions, judicial opinions, in order to accept otherwise protected by law and all other governmental publications, except those by government-owned entities shall be in public domain and free from the encumbrances against use by citizens.

This shall not constrain the government from copyrighting other aspects of governmental publications, except that citizens shall always have license for personal use of all the copyrighted work without notice or fee."

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

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: The Chair declares that the motion passes, the language stands. And Mr. Keen, you are not recognized. Chair would declare a ten-minute break. We'll return here in ten minutes. Don't stray far.

(recess taken)

MR. HANNAH: Delegates, let's be in our places and we're back in order. Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chair. We're proceeding through the revised Constitution, and we are now to Section 12. This, let me tell you, -- and I'll ask the scribe to enter above the reference to Section 12 that this is a new section in reference to our 1975 Constitution. This language is entirely new. And I will read the language.

"In accordance with Article 12 of the Treaty with the Cherokees dated November 28th, 1785, "Treaty of Hopewell," and Article 7 of the Treaty with the Cherokees dated December 29th, 1835, (Treaty of New Echota), there shall be created an elected office of Delegate to Congress who shall be a citizen of the Nation and shall serve a term of four years.

The Delegate to Congress shall be headquartered in Washington D.C. and shall endeavor to participate in congressional activities, and shall at all times act in the best interest of the Cherokee people. The Delegate to Congress shall make regular reports to the Council and Principal Chief on congressional activities and administrative matters related to federal Indian policy and shall produce an annual report of the Cherokee people on the state of Indian Affairs in Washington."

Now, having read that, I would like to defer to Dr. Gourd for further presentation on this.

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

MR. GOURD: Charles Gourd, delegate. Thank you, Mr. Chairman. In placing this, we felt it important that as we go through this document in looking at treaties and agreements that there are certain treaty rights that the Cherokee Nation has not brought forward into the current document, nor into our capacity as a sovereign Nation for representation in our government-to-government relationship with the United States.

There is provisions for this in treaties. There has been a number of research papers written, so the best format in which we felt this could be placed into the Constitution was at this point.

Also, there was discussion that the treaty language says at different points that the Nation shall appoint that person. So we look at whether it would be appointed by the Chief, confirmed by the Council. I think we are rising on the consensus that, however the Nation decided that appointment should be, we would go with it, so we made it to be an elected office. So with that, we leave it to

the delegates to fix.

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

DELEGATE: Second.

MR. HANNAH: There is a second, and the floor is open for debate. And how rise you, Mr. Cornsilk?

MR. CORNSILK: Mr. Chairman, I rise in favor of this amendment with some reservation. My reservation with it concerns who will pay the salary of this individual, and has the Commission done some research on who pays the salary of the delegate to Congress from Guam, Puerto Rico, Virgin Islands, et cetera? And that's really my main concern.

MR. SMITH: Congress pays for that.

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

MR. SMITH: I stand on this amendment, this section, first, to delete some language. In the second full sentence, "the Delegate to Congress shall be headquartered in Washington D.C." I move to strike the language, "shall be headquartered in Washington D.C."

And then, secondly, I move to delete in the last sentence, the language immediately after "federal Indian policy," which should be stricken, "and produce an annual report to the Cherokee people on the state of Indian affairs in Washington." I further move to add language --

MR. HANNAH: Forgive me, Mr. Smith, for interrupting. I really think we can make some time here, if we get this exactly.

MR. SMITH: The last sentence, where it begins, "and shall produce," strike to the end of the sentence. Then add language, "the Council shall make provision for election of the Delegate to Congress."

Actually the delegate to Guam and Puerto Rico and such is like a House of Representative, and the federal government makes provisions for the election of that person. The federal government pays for their expense.

I concur with the Commission's recommendation, because in question it tells the federal government that we want to insist on the exercise of this treaty right that was valuably bargained for under the two Treaties of Saudi (sp). The first Treaty of 1785 was the second treaty the United States entered into, first with the Cherokee Nation.

We paid dearly for this right in the Treaty of December of 1839, in the Treaty of New Echota, which was the warrant for the Trail of Tears. So when congress says that this is whimsical, we paid for this right dearly with four thousand lives in our territory in north Georgia. I would invite those amendments.

MR. HANNAH: There is an amendment proposed. Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second, the floor is

open for debate. The kind lady from Tahlequah is recognized.

MS. CHAPMAN-PLUMB: I rise in qualified support of this proposed amendment. I believe that we have -- we're getting ready to have -- right now we have fifteen elected Council members, a Deputy Chief, and a Principal Chief that are our elected representatives. We elect them to represent our interest.

I think this is a good idea, but I think the person who serves in this office should not be elected because then we're going to put them in competition with our already elected government. They need to be working in concert with the elected government, and they need to be selected by the elected government.

So it's probably out of order right now, but I would change the word "elected" to "appointed." Let the Principal Chief appoint that person and let the Council approve it, otherwise, we're setting ourselves up for what? Who are we going to have?

MR. HANNAH: The kind lady will retire and hold that thought to be resurrected. Delegate Stopp, I believe, you are recognized.

MR. STOPP: Yes. I'm going to rise in disagreement of this section, but I need to explain where I am in disagreement. Again, I agree with the young lady there that the elected portion of it should be taken out. I agree that we need to have representation in Washington D.C., but I do not believe it's a constitutional issue, that it's a legislative issue that we legislate that office.

In addition, again, I believe it's a legislative issue versus a constitutional issue, that the elected office should not be an elected office but an appointment confirmed by Council. I also believe that there is a part of this office that is served by the legislative, the executive, and also the judicial branches as representation to the Cherokee Nation to D.C.

I am in favor of the spirit of the act, but not in favor of the four-year guaranteed terms.

MR. HANNAH: Thank you, delegate. Delegate Poteete, you are recognized.

MR. POTEETE: Well, I have some -- I know we have this right, and it really sounds appealing to say, we're going to send our own delegate. We'll be the only tribe that has that right. We're going to send them, and they're going to be on the floor in Congress, and they'll have easy access, and they can work for us there.

That sounds right, and if we did it, certainly I echo Mr. Stopp's and Ms. Plumb's idea that this would have to be an appointed position. Certainly, we can't have someone that is working a different legislative agenda in Washington D.C. than what the Chief is. That works us at cross purposes, and it's just not practical.

But I would urge that you consider, if we exercise this option that we've had all of these years, and our ancestors have never chosen to do this. One of the reasons might be that if we have that delegate, we could probably be precluded from the lobbying

efforts that we do.

In other words, we hire lobbyist that meet with all the different legislators, and we get attorneys who are experts in the health field or the labor field, different fields to go in, who know the legislative structure, who know how to push legislature -- or we did this previous to the last few years when we continued to gain funding and expand programs, this is the way we did it.

We hired some attorneys who, for a very modest fee considering -- in comparison to what we spent lately, and we honed in on expertise, and we were able to sell the legislators who chaired various committees on what we needed.

I'm afraid if we go to this way of doing things, the Congress is going to say, "You have your delegate; you have your representative; we're not going to receive your lobbyist anymore." And one person can't do it all. It sounds great, but I don't know that it's the best way to go to achieve more services for our people and to generally look after our best interests. Consider this very carefully.

MR. HOOK: Mr. Chairman, point of clarification.

MR. HANNAH: Yes, sir, Dr. Hook.

MR. HOOK: I'm confused. I thought we were considering debate on Mr. Smith's proposal.

MR. HANNAH: The Chair was about to rise to clarify that. We are at debate, ladies and gentlemen, over the amendment that has been presented by Delegate Smith, which you see in the language that has the strike.

So what we are about debate on at this point in time is, "shall be headquartered in Washington D.C. and shall produce an annual report to the Cherokee people on the state of Indian affairs in Washington." That would be the context of our debate at this time.

Sir, you're recognized.

MR. RIDER: Delegate Rider from Seminole. I stand in support of this amendment. But I do have a reservation of people going to Washington and to congress, and as we are all aware of things in the past with congressmen.

Sometimes they go up there and they get so involved in all of the caviar and cocktail parties and stuff, and all of these big organizations, companies and stuff, and they forget about the people back home and get other interests. So I think we should have some checks and balances on this person, if we do send them up there, to be extremely accountable to the Tribe. And that's all I have.

MR. HANNAH: Thank you kindly, Mr. Rider. Good doctor is recognized.

MR. ROBINSON: Ricky Robinson, delegate, Tahlequah. Once again, I'm wavering on this total thing, but I am in opposition to the amendment for the fact that if this individual is doing this type of work, he is going to be paid a salary like the delegates get paid from Puerto Rico or Guam, American Samoa, or

whatever. I believe that individual should be headquartered in Washington D.C. Thank you.

MR. HANNAH: Starr-Scott is recognized. How rise you, ma'am?

MS. STARR-SCOTT: I speak against this amendment. I believe that while it may be necessary to -- or would be good to send someone up there, I don't believe it's necessary to put this in the Constitution. I believe if we send an elected official, first of all, it's going to cost a lot to elect an official.

Secondly, you're going to have seventeen located officials to represent this Nation. You send one individual up there to lobby, there's going to be differences of opinion. You're going to be in two different directions. If --

MR. JOHN KEEN: Point of order.

MR. HANNAH: Forgive me kind lady. Point of order being raised. Mr. Keen.

MR. JOHN KEEN: With all respect to the gentle lady, not germane to the motion at hand.

MR. HANNAH: Mr. Keen, thank you for the point. I will allow the gentle lady to withdraw. Mr. Hembree, you are recognized.

MR. HEMBREE: I will take umbrage with the Chairman's decision on that. The debate on amendment, yes, it's proper, but actually, the section itself, it can be germane to the amendment that's on hand. So I believe Ms. Starr-Scott would have been proper in her argument.

MR. HANNAH: In that case, the Chair showing an abundance of fairness will ask kind delegate to be seated, and Starr-Scott, will you please conclude your remarks?

MS. STARR-SCOTT: I just believe this Nation could be better served by the Chief making an appointment for that position and the Council confirming it, rather than to put this individual through an election and be in a position where they're going to compete with the Chief, Deputy and seventeen Council members. I think we need to conserve our resources, spend them as best we can to benefit the people of this Nation.

MS. COLSON: I'm Colleen Colson, delegate. I just have a question. Actually, I have two questions. I would like to ask of Chad his reason for wanting to strike, shall "be headquartered in Washington and shall produce an annual report."

MR. HANNAH: Mr. Smith.

MR. SMITH: Thank you. On the annual report, it says -- my objection is it says, "on the state of Indian affairs." That's sort of broad, and it is unnecessary language. That's the only purpose there.

On the strike, the headquartered D.C., that is unduly restrictive, too. They can be headquartered here in Tahlequah just like our second district congressman is located in Muskogee. So it's unduly burdensome on that delegate, and that's why I ask those

provisions be stricken.

As to the Council making provision for election of the delegate to congress, I don't think we understand what's going on here. This is not an ambassador by the Cherokee Nation to D.C. This is a federal office that was guaranteed to us by treaty.

It's the same thing for Oklahoma. You've got the governor of Oklahoma, and at times he gets irritated with the Congressman in D.C. representing Oklahoma in congress. So there is some friction, you know, between the governor of Oklahoma and the second district Congressman at times.

But that's what this delegate is, is a Congressman for the Cherokee Nation in the House of Representatives. The only difference between this delegate and a true congressman is that he cannot vote on the open floor.

You have all of your delegates from Guam, America Samoa, Puerto Rico, they get to go on all the caucuses; they get all the information; the government pays for them; they get on all the lists; they get complete ingress and egress to every place in the capital building, in the house. The only place they can't talk is on the open floor in a vote.

That is our treaty right. That is a guaranteed conduit to the federal government. They have cut that conduit off in 1867 when they said no more treaties. We now serve -- I have to take your indulgence, my good competitor, friend, and client, Pat Ragsdale, talks about the Tribal federal relationship as one as a black ant in a bar.

The federal government can take its glove and rub you ought. And they did that very successfully in 1870, when they said no more treaty rights. What this does is compel the government to live up to their word, or say, "We lied to you all of this time and we are going to tell you we lied to you."

They have this duty; they have this obligation, and if they do give their word, what that gives us is guaranteed ingress and egress information in the federal congress. And they set that relationship up; we're entitled to that.

The friction between the Principal Chief and the delegate may be there at times, but this delegate at congress is our delegate to congress. And that's why we need provisions there for election of the delegate to congress because that person is elected under federal law to congress, and we need the language there to facilitate that first election, to knock on the federal government's door and say, "Hey, we're here with the treaty; we want you to honor it."

MR. HANNAH: Dr. Gourd, are you withdrawn, or did you wish to be recognized?

MR. GOURD: I'm just here to answer questions when available.

MR. HANNAH: Dr. Hook, you are recognized.

MR. HOOK: Believing that it's very important that a component of this be an annual report, I would like to

propose a friendly amendment that the language, "and shall produce an annual report to the Cherokee people," be included, and delete, "on the state of Indian affairs in Washington."

MR. SMITH: I will concur.

MR. HANNAH: Friendly amendment was offered and has been accepted?

MR. SMITH: Yes.

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

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

MR. HANNAH: Without opposition to the second, I might add. Mr. Keen, go ahead.

MR. JOHN KEEN: We have been talking about the cost and who's going to pay for it. I agree with Mr. Smith that we have paid dearly for this treaty right with his number of four thousand lives. To not exercise that right would be a grievous error on our part, and not representing the people's will and making it a constitutional right.

As far as "shall be headquartered in Washington D.C.", I oppose the amendment on that. I would like to have everybody think about the cost involved and how many trips, how many different people we fly to Washington every week, sometimes every day. How much money does that cost us right now?

I would submit to the delegates that this would be a less expensive way of having representation in Washington. One person with his duties being exclusively that, handling our affairs in Washington, rather than seventeen people with fifty different organizations or more to attend to, plus the business at hand at home.

The "shall be headquartered in Washington D.C." part is an essential part of this. I submit to the delegates that it would cut down the cost, and be a better part for the Cherokee Nation.

MR. HANNAH: Chair will entertain further debate. Delegate Stopp, are you seeking recognition?

MR. STOPP: Yes, I am.

MR. HANNAH: You are recognized.

MR. STOPP: Just to clarify this, I think we're looking at a couple, I think it's a very important article, and that we are at a point where we need a delegate to congress, but I think the words "elected official," should be a legislation action or a congressional action --

MR. JOHN KEEN: Point of order.

MR. HANNAH: Point of order. And kind delegate, I will once again, the Chair will remind those in debate that we are debating the Smith amendment to this article, which is in fact the strike-over language. And the Chair --

MR. JOHN KEEN: Call the question.

MR. HANNAH: The question's been called; 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: And those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: The Chair declares that the debate has ended, and the question is before us. In Section 12 on the Smith amendment for the strike-over language, "shall be headquartered in Washington D.C." and on the "state of Indian affairs in Washington, D.C."

Voting yea, of course will cause this language -- and inclusion of the last sentence. I'm sorry, the underlying portion.

"The Council shall have provision for election of the Delegate to Congress."

Voting yes for this will obviously delete and supplant the language that you see before you. All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: The motion carries, and the language is set. Mr. Keen, you're recognized.

Mr. Keen, I apologize for bringing you back to the podium. The Chair notices that the time has drawn to 11:26, and, therefore, would declare -- let's have some order here for just a moment, okay. The Chair will declare a lunch recess. We will reconvene at 12:30.

Before we depart the chambers, though, Dr. Gourd, will you give us instructions as to the directions we need to take with regard to lunch?

Delegates will stay here in the chambers and we'll make

--

MR. GROVE: Are they going to bring it to us?

MR. HANNAH: The good delegate from Grove brings a classic question before us.

Ed, do you have instructions for us for lunch?

MR. JUMPER: I was told at the University Center that you'll be eating in the Cedar room. They had -- whoever gave them the numbers the first time told them for fifty people. I had to go back and tell them that it was for seventy-five. So, hopefully, that's how many is here, and it's just going to take a little longer going through the line. But it will be in the Cedar room, and I believe that's on the second floor. And that's about it.

MR. HANNAH: Just a moment, folks. Just a moment. All right. Is everyone clear on what we're doing for lunch? Mr. Littlejohn.

MR. LITTLEJOHN: Point of personal preference. Has the Chair determined the plans for the group this evening? Do

we quit at five; do we quit at ten; do we reconvene tomorrow at eight?

MR. HANNAH: The Chair would entertain the preference of the delegates.

MS. STARR-SCOTT: Declare a holiday.

MR. HANNAH: Therefore, Mr. Littlejohn, I think it is an appropriate question, and we should in fact take that up on business upon returning from the recess.

Tina, if you're going to have something to say about that, I would ask you to hold that after lunch.

MS. JORDAN: Could I leave them with a thought?

MR. HANNAH: Oh, you can, but let me get in a piece of just pure mechanical stuff first, okay.

The NSU parking and traffic needs to advise delegates to the convention that the parking lot between the University Center and the Net building has been reserved for another event on Tuesday and Wednesday. So apparently NSU, you know, they have saw forward that we have finally found a clairvoyant entity here.

And this is also true for the circle drive in front of University Center. The delegates should be aware that they should park in the commuter parking lot adjacent to the fitness center. It is within very close walking distance, they remind us, to the Net building.

To those of you who are saying, where is the fitness center, and for those of you who are directional, I will indicate that it is southeast of this location. For those of you who are historical, I will tell you it is near the Hasting's cabin. For those of you who are just plain lost, you're going to come and see me after we get out front, and I'll point toward it, okay.

I'd also point out to you that the Chair has entertained a number of parking tickets over the past three days. And if you've in fact secured those on your vehicle, if you will bring them to the Chair, I would be very pleased to dispose of them in an appropriate manner.

And Tina, you're recognized.

MS. JORDAN: I would suggest to this honorable body, we worked hard three-and-a-half days now; let's consider taking from five on to do some caucusing tonight to prepare us for the remainder of our work. That's just a thought.

MR. HANNAH: It's a thought that's well accepted. And we are going to recess, and we'll reconvene at twelve-thirty.

(recess taken)

MR. HANNAH: Ladies and gentlemen, let's be in order here. And we're returning, and we're open for business this afternoon.

We're returning to Section 12, ladies and gentlemen, which thus far at this point, you recall had introduced a new section from the Commissioner Manager this morning, Mr. Keen, and it has already gone through one piece of amendment by Mr. Smith on

point of language. So the new section, Section 12, is before us at this time. And the floor is still open for debate and the Chair would recognize delegates.

MR. CLARKE: Mr. Chairman.

MR. HANNAH: The kind gentleman down front here is recognized. Do you rise to speak on the amendment, sir?

MR. CLARKE: No, sir, I hope I'm not out of order.

MR. HANNAH: That's okay.

MR. CLARKE: I am sometimes kind of disorderly, but --

MR. HANNAH: Well, after all you are the author of the number eighteen.

MR. CLARKE: And the author of eighteen would like to address what you said before we broke for lunch about coming back and making some kind of a decision in regards to recessing.

MR. HANNAH: And thank you for raising that issue.

MR. CLARKE: I would like to make a motion on that.

MR. HANNAH: You would like to make a motion on that. And before you make a motion, you need to be informed.

MR. CLARKE: Okay.

MR. HANNAH: And I will inform you that Dr. Gourd has contacted the officials at Northeastern State University, and they have in fact verified that this facility will be available to us until ten o'clock tonight, and that this facility will also be available to us all day tomorrow until ten o'clock tomorrow evening.

So our earlier concerns that the University or perhaps this facility would be in conflict is no longer an issue. And should it be the pleasure of the delegates for us to continue our business, we in fact have this facility to do so. And armed with that information, sir, what say you?

MR. CLARKE: If it would be the pleasure of the delegation, I would submit a very friendly proposal. Hopefully, it will be maybe even be a best seller, that we not go perhaps past seven-thirty or eight o'clock tonight. I'm tired.

MR. HANNAH: I will assure you that the Chair while obviously bowing to his elders, is also -- shares the sentiments there for certain. The Chair also recognizes that we have business before us.

Back on the other side, though, we need to have quality business about us. And there is no one here that is attempting to push this through at such a pace that we somehow lose the quality of debate, the quality of focus and the quality of discussion that we should have. Because after all, ladies and gentlemen, as we have said all along, we're responsible to the citizens of the Cherokee Nation.

So there's a motion on the floor that the day's business be concluded at eight this evening; would that be correct, sir?

MR. CLARKE: Right.

MR. HANNAH: That this body would recess no later than eight p.m. this evening. Is there a second?

DELEGATE: Second.

MR. HANNAH: There's a second.

MS. JORDAN: Could I make a motion to table that, and let's try to finish this article, and then let's discuss where we are at that point.

MR. HANNAH: There is a motion to table. Is there a second?

THE DELEGATES: Second.

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

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And Chair declares that the author of number eighteen and the provider of a friendly amendment has now had his amendment placed on the table.

Mr. Keen, you are recognized -- well, actually, no, you are not, sir. The floor is open for debate on Section 12. And, Mary Ellen Meredith, you are welcome to the podium.

MS. MEREDITH: I rise in opposition to this section. Years ago, I was not only the first kid, but the only kid on the block to have a bumper sticker that said, "Honor Indian treaty rights," and I'm very much in favor of doing that.

I do believe, however, that these particular treaty rights ought to be honored in a way other than having people elect a representative to congress. I feel that an elected representative could too easily be for cross purposes with the Chief and the Council, and I believe that whereas an Oklahoma Senator or representative goes to Washington, and it's a friendly situation dealing with their own government, but when the Cherokees send representatives to Washington, they should speak as closely as possible with one voice because we are dealing with a foreign power.

I believe it is perfectly possible if the President will agree to this, if the congress can be made to agree with this to seat a representative, that the Chief ought to be given the option of appointing someone to that position. Thank you.

MS. MASTERS: Point of clarification.

MR. HANNAH: Point of clarification.

MS. MASTERS: To the previous delegate or maybe the maker of the motion. The sentence at the end saying, "The Council shall make provisions for election of a delegate to congress," that doesn't necessarily mean the people would have to do that. Couldn't that election be by the Council, give it that type of wording? Couldn't the Council elect to elect the person themselves?

MR. HANNAH: Mr. Keen.

MS. MASTERS: That wasn't his wording.

MR. HANNAH: Actually, is that not your wording?

MR. KEEN, JR.: No, it's not.

MR. HANNAH: Okay. I stand corrected. Mr.

Smith, you're recognized.

MR. SMITH: I think we need to go back to fundamentals. If you look at -- this delegate is the same thing as the delegate to Guam, America Samoa, Puerto Rico, to the U.S. Congress. They are in fact a representative in the House of Representatives.

In essence, it's a federal officer. In many ways, it's a federal officer. It's our delegate to congress. It has to be elected. There's no if, ands or buts. It has to be elected.

The question here, though, is how do you take that first step? Because the federal government hasn't come down here and said, "Guys, we've got the ballot for you to send your guy up here."

We're going to have to go up there and knock on their doors. So the provision is there for electing a Delegate to Congress.

It's really the first time we'd vote that right. We have an election; we send somebody up there; we go on the House door; we talk to the Sergeant at Arms to say, "Where's our name plate? We want you to live up to your treaty rights. We gave up four thousand lives in 1835. We gave up twelve thousand square miles. We're holding you to your word."

There is just no way to appoint a Delegate to Congress. If you want to appoint somebody to go to congress, we need an ambassador. But this is a wholly different character. And I think it's critical because what that delegate will do when he goes to Washington with this Constitution, he can say very clearly, unequivocally, this is the will of the Cherokee people that you are going to live up to your treaty obligations.

MR. DOWTY: Point of information.

MR. HANNAH: Point of information.

MR. DOWTY: Delegate Dowty. And I address this to Delegate Smith and also the author. In as much as the federal government in the language of the treaty must make provisions for the delegate, would the elected term of four years be any impairment insofar as a federal approval would be a concern? Because other representatives of the federal government are two-year terms.

MR. SMITH: I think that's well taken, that we should visit that.

MR. DOWTY: Would an amendment be timely, Mr. Chairman?

MR. HANNAH: If Mr. Smith would accept the friendly amendment to that change.

MR. SMITH: I think we all can.

MR. DOWTY: Then I propose the amendment to change the term of the elected delegate to two years.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: I would have no opposition, but of course, I need to poll --

MR. HANNAH: Mr. Underwood.

MR. UNDERWOOD: No opposition.

MR. HANNAH: Mr. Gourd.

MR. GOURD: Yes, sir.

MR. HANNAH: Opposition or no for friendly amendment to reduce the term of office for the United States congress representative from Cherokee Nation from four years to two years. Is that correct, Mr. Dowty?

MR. DOWTY: That is correct. And it would then be consistent with the elected term of the representatives of the United States of congress.

MR. GOURD: My personal preference would be to have it at four years to give us a longer range of continuity. Service to the Nation, but, you know, if that would restrict me. I don't think we need to replicate what congress has, and I do not know how the other delegates or others or what their term of office is.

MR. HANNAH: Charlie, I think that we at least are at a mindset that those other representatives, non-voting representatives to congress for American protectorates for territories are in fact serving the same term as of the United States voting congressman on the floor.

And if the Chair may, the Chair takes its position as a commissioner in this statement. I think that there's an underlying fear that by setting the term for that representative at four years, it being in deferentation to the remainder of the Unites States Congress, that it might somehow bring that position in peril and cause the Sergeant at Arms of Congress not to seek that member. Would that be correct, Mr. Dowty?

MR. DOWTY: That would be correct.

MR. GOURD: I would accept it then.

MR. HANNAH: Okay, very well. Mr. Hannah accepts it as well. Ms. Coon.

MS. COON: Yes.

MR. HANNAH: And she says yes, as well. Mr. Keen.

MR. KEEN, JR.: So we've accepted the friendly amendment to change the term to two years, and Mr. Smith has raised another possible option which I'll allow him to voice, but for now let's set it at two years.

MR. HANNAH: Chair is still entertaining debate on the motion as before us, if anyone rises to speak. You are recognized, good sir.

MR. GUNTER: Jerry Gunter, delegate. If a person is going to be elected every two years, it effectively means that they're going to be serving one year and spend another year campaigning. Every other year they're going to be on the campaign trail.

MR. HANNAH: Thank you, sir. Mr. Hoskin, you are identified.

MR. HOSKIN, JR.: Thank you, Mr. Chairman.  
Charles Hoskin, Jr., Vinita. I rise to make a motion to change "elected" in line three to "appointed" and strike the last sentence.

There's already been debate on this issue. I do like what the gentle lady from Oklahoma City pointed out, that we are dealing with a foreign government. It is true that this is a delegate to the United States congress, as Mr. Smith points out.

As I read the treaty, and I have to admit that my first reading of these treaties, at least those provisions, were up on the screen today. I did not read it to mandate appointment. But I think we as a sovereign people can make certain decisions. I think we have certain latitude in this area. I don't think we're bound by the norms of the United States Congress.

I think that if we appoint this delegate, it will be a process by which the Chief appoints it, and the Tribal Council confirms it. That will get a lot of input by different branches of the government, which, of course, is ideally the voice of the people.

And I think it's very important just to echo what the gentle lady from Oklahoma City, that we speak with one voice when we're dealing with a foreign government that has so much influence on our Tribe. Thank you, Mr. Chairman.

MR. HANNAH: Delegate Hoskin --

MR. DOWNING: Point of information.

MR. HANNAH: Hang on for just a second. The Chair always wants to say exactly where we are, so we never somehow depart from, and in fact the Chair can remember where we are.

Amendment has been put forward by Delegate Hoskin that you can see in underline and in striking; it has been seconded. And you are recognized, sir, for your point of order.

MR. DOWNING: Is anyone here familiar with these treaties, and does it say "elected officials"? If that were in the treaty that was made a hundred years ago, we cannot change it today.

Incidentally, I would prefer to have it changed to "appointed," but that's immaterial.

MR. HANNAH: So the gentleman rises with a point of information asking if we have treaty scholars here with us who can speak --

That's what I call a fast and articulate Indian Nation. Not only can we debate the treaties, but we can bring them up on the screen right here in front of us. And here you see, that is Article VII of the Treaty of Hopewell on November 28th, 1785, "That the Indians may have full confidence in the justice of the United States respecting their interests. They shall have a right to send a deputy of their choice whenever they think fit to congress."

From the Treaty of New Echota on December 29th, 1835, Article VII, "The Cherokees shall be entitled to a delegate in the United States House of Representatives whenever congress shall make provisions for the same."

And the words as the Chair sees "point" or "elect" do not

appear. Mr. Keen -- I'm sorry, Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, I think, though, the wording of this is pretty clear, and what we're suggesting here by appointing this official is contracting the number of people that he represents. We're looking at the Democratic process to find representation in congress.

I don't think that anybody in this building would like to see our state representatives appointed by the governor. And I think in this, if we look at the wording of this it says, "The Indians shall have a choice." That's all of us. Not just the twelve, fifteen, seventeen, nineteen, people who are in the complex.

I would strongly recommend that this body make this position an elected position by the people of the Cherokee Nation.

MR. HANNAH: Floor is still open for debate. With regard to Mr. Hoskin -- and Mr. Keen, you are identified.

MR. JOHN KEEN: I'm sorry, am I recognized, sir?

MR. HANNAH: You are recognized, sir.

MR. JOHN KEEN: John Keen, delegate. In response to younger Mr. Hoskin's debate, and also the gentle lady from Oklahoma City, I rise in opposition of Mr. Hoskin's amendment.

I agree with Mr. Cornsilk. It is stated clearly that we can -- I believe Dr. Gourd stated to earlier "point" or "elect."

But the intent is stated clearly that the Indians can choose their representative. To me that means Indians, I mean, the Tribe, the Cherokee people, not -- that would be so far removed from the Cherokee people to have their representatives elect another representative. That's not representative of the individual Cherokee people.

Also, the argument of having him at odds with the Chief because he's elected is analogous to like Mr. Cornsilk said, to the governor appointing our congress people. That's the intent here. We have to have someone else arguing for us up there.

To say that he would be at odds with the Chief may be true, but the same as our Congressman in congress, they're there representing the people for the State of Oklahoma. The second congressional district here, that he's here representing the people.

He is at odds with the governor sometimes, but that's good. That's democracy in action. That's the way it's supposed to be. I rise in opposition to this amendment.

MR. HANNAH: Dr. Hook, you are recognized. How say you on this amendment?

Mr. HOOK: I stand in opposition to the proposed change. I believe that traditionally we had a number of various types of leadership from clan elders to Council to advise the Chief, and we have been about discussions of separation of powers, so I don't see that as a problem at all. In fact, I think it would be an asset to provide the people another opportunity.

Secondly, if indeed we chose to have an appointed rather than elected we would be not only in congress, we would be only one there without an elected position. And although I'm not opposed to

being different at all, I'm not sure that that would be in our best interest.

MR. HANNAH: Chair would recognize delegate rising in favor of the amendment that is before us.

MR. DOWTY: Mr. Chairman, point of order, sir.

MR. HANNAH: Point of order.

MR. DOWTY: Would a friendly amendment be better entertained to Delegate Hoskin's amendment?

MR. HANNAH: I believe we'd need to hear it first.

MR. DOWTY: Delegate Hoskin has expressed his intent that the appointment be by way of the Principal Chief and confirmed by the Council. If that is his intent, why should not his amendment contain that language? And so I would propose after the word "appointed," "appointed by the Principal Chief and confirmed by the Council."

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

MR. HOSKIN, JR.: I would agree to that friendly amendment, Mr. Chairman.

MR. HANNAH: Does any delegate rise in support of the amendment as it appears?

MR. ROBINSON: Mr. Chairman, I do.

MS. MASTERS: I'm in support of it.

MR. ROBINSON: I'll let Dr. Masters. I'm glad we agree on something. Getting closer and closer.

MS. MASTERS: Been here long enough here to circle, haven't we?

MR. HANNAH: Okay, folks, just a moment. Dr. Masters, you are recognized.

MS. MASTERS: I would support this change and now that -- particularly that we have it appointed by the Chief and confirmed by the Council. At this time, we have nineteen elected delegates to represent our Tribe. And to compare a tribe with a state or with a protectorate or whatever they call the islands now, I think that we need to really look closely at that.

We are a smaller entity, and we are not individuals. We are recognized and treated as a tribe, not as individuals as the State of Oklahoma is. And so I believe that that calls for us to coelect our elected delegates together more closely to meet our needs. Because we are, in the eyes of the United States government, a single entity as a tribe, not as a collection of individuals.

So that's my main thinking for this, that it will help us coelect and will focus our needs in a unified effort, as opposed to a divided effort.

MR. HANNAH: Good doctor, you are recognized.

MR. ROBINSON: Rick Robinson, delegate from Tahlequah. She stole a lot of my thunder, but I will point out one other item. With due respect to Dr. Hook, I feel like that there's precedence in our traditional background that offices were not selected all the time by the people at-large, but were selected by

the Council or the clan mothers below, like that.

So I think that either way we go would be fine. I just simply prefer that it's appointed by the Chief and confirmed by the Council. I think that the people's voice would be a louder voice if they contact their Council person to convey wishes to the delegate. And I appreciate your time.

MR. DOWTY: Should the Chair re-recognize Delegate Dowty for a correction of the language?

MR. HANNAH: I would for correction of the language, and would urge our delegate, be mindful that while the Chair will indulge constructive debate that we not get into too much of a loop of bringing the same delegates back and back and back again for review of the same discussion. But for your correction, sir, you're recognized.

MR. DOWTY: I thank the Chair, Delegate Dowty from Tahlequah. In order to correct the language, I would ask that the language which is now "by the Principal Chief and confirmed by the Council," that that language be moved after the words "delegate to congress," and add the word "and" after Council.

And I think the word, where "elected" is stricken, the office of Delegate to Congress, instead of "elected be" -- strike "elected," that would be my recommendation.

MR. HANNAH: Mr. Hoskin, do you accept these changes?

MR. HOSKIN, JR.: I accept those changes.

MR. HANNAH: The good delegate from Muskogee. Calvin, you are recognized.

MR. McDANIEL: I just wanted to say a little something. A little bit older, and I don't catch everything that goes on here, but I want to say something. I'm opposed to this idea of sending a delegate to congress. Next thing, we want to send a delegate to Mexico or Canada or even Great Britain.

We have one representative in Washington; why couldn't we have these other delegates that represent us in another country? I know that sounds looney. But my real reason is sending somebody to Washington to have a permanent vacation up there, I'd rather see his expenses and salary spent on medical needs of people in the Cherokee Nation.

MR. HANNAH: We will accept that. Thank you, Calvin. Mr. Smith, you are recognized.

MR. SMITH: Thank you. The royalty we're talking about here is not a creation of the Cherokees to send an ambassador to the United States. This is a treaty right. If you look at the bottom two, this is a right given, one of the few times the federal government gives us something.

It's a right they give to us, and they prescribe the terms of that right that they give to us. And right there on the bottom part, you can see clearly the terms of the right that they give to us. They said we can send a delegate to the United States House of Representatives.

There's only one kind of delegate in the House of Representatives, and that's the representatives. You can look at Puerto Rico, Guam, America Samoa, and if you look at the language that each of those are entitled to go to congress, they are all elected just like Tom Coburn. We don't have an option here.

If you want to send an ambassador to the United States, you can have the Chief appoint one with affirmation of Council. But to exercise this right, you're going to have to do it on the terms that they prescribe, and that's going to be elected.

The other way you can get around it, if you just strike the word "elected" or "appointed" and just say "create an office of a delegate" and let federal law take effect thereafter.

MR. HANNAH: Mr. Keen, you wish to be recognized?

MR. KEEN, JR.: I call for the question.

MR. HOSKIN, JR.: I object.

MR. JOHN KEEN: I second the motion.

MR. HANNAH: We have a motion to call the question and have --

MR. HOSKIN, JR.: Point of personal privilege. I wanted to speak briefly. I know I've spoken before -- several have spoken before. If I would be indulged to just respond to some of the --

MR. JOHN KEEN: Point of order; question has been called.

MR. HANNAH: Mr. Hoskin, I'm sorry, sir. What we have here is, the question has been called; it has been seconded. We will take a vote on that, and if it fails, sir, I assure you, you will be recognized first off.

MR. HOSKIN, JR.: Thank you, Mr. Chairman.

MR. HANNAH: Question has been called to effectively end debate here, 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: Chair is unable to distinguish --

MR. KEEN, JR.: Mr. Chairman, could you clarify exactly what we have just voted for?

MR. HANNAH: What we have just voted for is to end debate on Mr. Hoskin's amendment. Is that -- Chair will stand corrected.

MR. BILL BAKER: Point of order.

MR. HANNAH: Point of order.

MR. BILL BAKER: You made a decision that you couldn't tell the difference.

MR. HANNAH: I could not make a decision between the yes and the no vote on that, and I'm getting ready to instruct the Secretary to take a standing vote.

MR. BILL BAKER: I would mention to you that

it's a two-thirds vote to close debate, and can you still not make that determination?

MR. HANNAH: The Chair cannot make that determination. That was the Chair's statement, and the Chair will instruct the Secretary to take a count. And thank you, Mr. Baker, for reminding me.

MS. JOHN KEEN: Would you clarify the question again one more time?

MR. HANNAH: All right, folks, just one moment, okay. What we have here is, Mr. Hoskin has his amendment up on the screen before us. We have been having debate; the question has been called; it has been seconded to end, obviously, to end debate.

And the Chair was unable to determine if in fact two-thirds of this room wish to end debate or not, and the Chair is prepared to instruct the Secretary to take a standing count. And the Chair would gladly, because the Chair remember is in the service of the delegates here, but the Chair would gladly be corrected.

And hearing no corrections, the Secretary is so instructed to count those who will now all stand in favor of ending debate.

MR. UNDERWOOD: This count is thirty-three.

MR. HANNAH: All of those be seated. And all in opposition to the call to end debate, please stand.

MR. UNDERWOOD: The count is twenty-six.

MR. HANNAH: So, therefore, the votes are, and is it correct, Mr. Secretary, that in favor of the motion to end debate, the number was thirty-three?

MR. UNDERWOOD: Right.

MR. HANNAH: And the number in opposition was twenty-six, and the two-thirds majority would be forty. And the Chair apologizes for the inability to distinguish seven voices. And debate is still on the floor. You are recognized, Mr. Hoskin.

MR. HOSKIN, JR.: Thank you, Mr. Chairman, and I do realize that I have spoken before, I will try to be brief. With all due respect to Mr. Smith, he is better versed in Cherokee history and Cherokee law than I am.

However it's my understanding that the history of treaties contains this principle, and that is that treaties are to be resolved in the favor of the Indians. And treaties are also reservations of right.

I disagree that the United States government can mandate to us what the word "send" means when they wrote "send" in the document. We have the power as a sovereign people to say what the word "send" means because this treaty should be resolved in favor of us; that includes us in this room.

I submit that we can appoint this delegate and that he or she can still be a delegate. We need to do this in exercise of self-government. And I also disagree that you can compare us to a state of this union. We are a sovereign nation, and we are a sovereign nation that is in the position of being low on resources

and often subordinate to the whims of the United States Congress.

Therefore, I think we need to speak with one strong voice. That's why I think we should have an appointed position that is appointed by the Chief, and then approved by the people's body, the Tribal Council of the Cherokee Nation. Thank you, Mr. Chairman.

MR. HANNAH: You've been heard, sir. Thank you for your patience. The kind lady from Houston is recognized.

MS. SCOTT: I speak in opposition to the amendment. I think that we need to create an entity that is and of itself an entity that is selected as Mr. Cornsilk said, by the people.

Any time you have an elected body that can throw the people into disrepair or disdain, then that reflects from this representative. And if this representative is elected in and of its own right, then it stands in and of itself.

And so I think we need to look at this closely and not give away a right of the people to make this selection. Thank you.

MR. HANNAH: Thank you very much. And, ma'am, say your name for the record.

MS. SCOTT: Deborah Scott.

MR. HANNAH: Deborah Scott, thank you. The kind lady from Tahlequah is recognized.

MS. HAGERSTRAND: I think Mr. Baker was next.

MR. HANNAH: He was indeed but the Chair would recognize age and beauty before -- and note that beauty was a part of that statement. And I'm sure that Mr. Baker would yield the floor.

MR. BILL BAKER: I do concur.

MR. HANNAH: Littlejohn, I don't want to get in trouble with you.

MS. HAGERSTRAND: I don't believe that you really understand the situation. We are not comparing ourselves to a state of the United States. We are comparing ourselves to these other entities, Puerto Rico and so forth, who send a delegate, an elected delegate to the House of Representatives.

That's why they named it that way. They represent the people. They are not appointed by the President or whatever they call them in Puerto Rico. They are elected by the people. They represent all the people. They are not a deputy of the Chief.

Now, when somebody gives you something, and that's what they're giving us in this treaty, they are paying it. We're not paying it. The United States government is paying it, for us to have a representative.

And you don't say to somebody who gives you a birthday present, I don't want that because it's not wrapped up pretty. You take the present. You thank them. And our representative would do us service up there. If we want to send a delegation and we can afford to send a delegation, the Chief wants to go up, needs to talk to the Secretary of Interior, we pay for that.

This is something that we're being given, and we ought to

be very lucky to have it. And we traded a lot of lives to have it.

And to say, no, no, no, we're not going to take it because our Chief doesn't send them. Better take it.

MR. HANNAH: The gentle delegate from Tahlequah is recognized.

MR. BILL BAKER: Thank you, sir. I would make a couple of observations here. One would be that, true, if we send a delegate to congress, and this 160-year-old right is recognized, and that person is seated, then I think that we should have language so that we could follow the same system that they do in Guam and Puerto Rico and have it in an elected position by the people.

But the plain fact is, this is something that everybody in this room agrees is the treaty right of the Cherokee people. But until this Tribe and this government exercises that right, it's not going to exist. We're not going to be able to get it on a federal election ballot that only Cherokees can vote on.

I don't think we want to invest the dollars on the unknown of electing a delegate and then having him go to congress and spend ten years. I mean, folks, this might take us twenty years before we actually gain the seat that we believe is due us. Just because we say it, don't make it so.

And so the Chief and the Council might have to continuously appoint a delegate to congress for maybe a generation before that person can be seated. At that point, once we have gained the recognition and the seating, then I agree, it ought to be an elected position.

But we're in the very infancy of this, and, you know, if you want to do another amendment to add once that is recognized that it becomes elected, but I don't think we want to continue every two years electing somebody only to be rebuffed in congress. Thank you.

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

MR. HEMBREE: Thank you, Mr. Chairman. Ladies and gentlemen, sometimes less is more, you know, if you understand what I'm saying. In each section it seems that while we've gone through this Constitution, we have expanded or risen the size of our government.

An election every two years, it's costly. The salary, the upkeep, the administration, the infrastructure of this office, it's going to be very costly. Yes, we do have a treaty right to send a delegate. We're entitled to a delegate. Nothing in this treaty right dictates to us how that delegate is to be chosen.

There is, I believe, nothing wrong, and I think completely within the power that we have in this body to state that if we are going to have a delegate to congress, which I'm not for sure that we should, but if we're going to have that position, it at least should be appointed by the Principal Chief and confirmed by the Council.

And in closing my remarks, I would move previous question on the amendment.

MR. HANNAH: Question's been called; is there a second?

DELEGATE: Second.

MR. HANNAH: Vote will be taken to end debate. All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And the Chair declares that the debate shall end. And what we have before us would be language as identified by Mr. Hoskin, if I'm correct. Mr. Vice-Chairman, will you stay with the Chair in making sure that he is exactly where he should be?

MR. KEEN, JR.: Yes.

MR. HANNAH: And the language is before us, striking the word "elected" and "approved by the Principal Chief and confirmed by the Council and." And then the phrase, "the Council shall make provisions for election of the delegate to Congress," also in strike-over position.

All of those in favor of the amendment before us, please signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: Chair unable to distinguish, and the Secretary --

MR. HEMBREE: Request a standing vote.

MR. HANNAH: And that, sir, is my instruction to the Secretary. Mr. Secretary, if you will, count the delegates. And those in favor of the motion before us, please stand.

DELEGATE: Clarification.

MR. HANNAH: Clarification. We are voting on the Hoskin changes that you see, that are underlined and are in strike-over position. If you vote in favor of these items here as inserted and stricken, will stand in the document, and if you vote no, then the language will stand as it originally was presented. Is that correct, Mr. Vice-Chairman?

MR. KEEN, JR.: Yes, sir.

MR. HANNAH: Mr. Secretary, conduct your vote.

MR. UNDERWOOD: Count is twenty-nine.

MR. HANNAH: All delegates being seated. And those opposed to the amendment, please stand.

MR. UNDERWOOD: Twenty-nine. The count is twenty-nine.

MR. KEEN, JR.: Call on the chairman to break the tie.

MR. HANNAH: And the Chair refuses to break the tie.

MR. SMITH: Mr. Chairman. I'm not sure if we can do this, but it would appeal to the Cherokee common sense again.

I would ask to table this for a brief amount of time. I think the comment by Mr. Baker, even though I hate to say it, has some merit, and the Chair --

MR. HANNAH: The Chair might remind the good delegate that starting off an extension of brotherly exchange in that tone probably wouldn't be very helpful.

MR. SMITH: I would ask to move to table the amendment to allow us a brief caucus.

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

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: We are in the middle of a vote, and a roll call vote has been asked.

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

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

MR. PHILLIPS: Might need the interpretation of the parliamentarian, but it's my interpretation that an amendment must have a majority or a motion must have a majority to pass. In this case, there is no majority. The motion fails.

MR. JOHN KEEN: Roll call vote.

MR. HANNAH: That is the interpretation of the Chair. But there is a call for a roll call vote, and that is privileged, and that shall be conducted.

So therefore, ladies and gentlemen, Mr. Secretary and the scribe, we will prepare for a roll call vote. It will be done so electronically as well. The screen will be open for your view. And Mr. Smith.

MR. SMITH: Yes, sir.

MR. HANNAH: Thank you very much. And I hope you understand the Chair in having to move through this procedure.

MR. SMITH: Yes.

MR. HANNAH: Thank you for your spirit of cooperation, sir.

All right, ladies and gentlemen, let's draw close here. We've had ourselves a vote, and we're getting ready to take one. If you are in favor of this amendment, then obviously the strike-overs and the additional language will stand as presented by Mr. Hoskin, and if you vote no, then the original language will be maintained.

Mr. Secretary, call the roll.

MR. UNDERWOOD: Adair.

MS. ADAIR: Yes.

MR. UNDERWOOD: Albery. Bill Baker.

MR. BILL BAKER: Yes.

MR. UNDERWOOD: Donn Baker. Jack Baker.

MR. JACK BAKER: No.

MR. UNDERWOOD: Berry.

MS. BERRY: No.

MR. UNDERWOOD: Birmingham. Burnett.

MS. BURNETT: No.

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, D.  
MR. DON CRITTENDEN: Yes.  
MR. UNDERWOOD: H. Crittenden.  
MR. H. CRITTENDEN: No.  
MR. UNDERWOOD: Crouch. Bill Davis.  
MR. DAVIS: Yes.  
MR. UNDERWOOD: Earl Davis. Carl Downing.  
MR. CARL DOWNING: Yes.  
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: No.  
MR. UNDERWOOD: Hammons.  
MS. HAMMONS: No.  
MR. UNDERWOOD: Hannah.  
MR. HANNAH: Abstain.  
MR. UNDERWOOD: Herod.  
MR. HEROD: No.  
MR. UNDERWOOD: Hathaway. Havens.  
MS. HAVENS: Yes.  
MR. UNDERWOOD: Hembree.  
MR. HEMBREE: Yes.  
MR. UNDERWOOD: Hook.  
MR. HOOK: NO.  
MR. UNDERWOOD: Hoskin, Jr.  
MR. HOSKIN, JR.: Yes.  
MR. UNDERWOOD: Hoskin, Sr.  
MR. HOSKIN, SR.: Yes.  
MR. UNDERWOOD: Johnson. 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.  
MR. KEEN, SR.: No.  
MR. UNDERWOOD: Lay.  
MR. LAY: No.  
MR. UNDERWOOD: Littlejohn.  
MR. LITTLEJOHN: Yes.  
MR. UNDERWOOD: Linnenkohl.  
MS. LINNENKOHL: No.  
MR. UNDERWOOD: Masters.  
MS. MASTERS: Yes.  
MR. UNDERWOOD: McDaniel.  
MR. McDANIEL: No.  
MR. UNDERWOOD: McIntosh.  
MS. McINTOSH: Yes.  
MR. UNDERWOOD: McCreary.  
MR. McCREARY: Yes.  
MR. UNDERWOOD: MacLemore. Melton. Meredith.  
MS. MEREDITH: Yes.  
MR. UNDERWOOD: Miller.  
MS. MILLER: Yes.  
MR. UNDERWOOD: Moore.  
MR. MOORE: No.  
MR. UNDERWOOD: Peacock. Mullon. Phillips.  
MR. PHILLIPS: No.  
MR. UNDERWOOD: Pitts.  
MS. PITTS: Yes.  
MR. UNDERWOOD: Plumb.  
MS. CHAPMAN-PLUMB: Yes.  
MR. UNDERWOOD: Poteete.  
MR. POTEETE: Yes.  
MR. UNDERWOOD: Raper. Rider.  
MR. RIDER: No.  
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. M. Silversmith.  
MS. SILVERSMITH: No.  
MR. UNDERWOOD: R. Silversmith.  
MR. SILVERSMITH: No.  
MR. UNDERWOOD: Smith.  
MR. SMITH: No.  
MR. UNDERWOOD: Center.  
MR. CENTER: No.

MR. UNDERWOOD: Starr. Stopp.  
MR. STOPP: Yes.  
MR. UNDERWOOD: Stroud.  
MS. STROUD: No.  
MR. UNDERWOOD: Twining.  
MS. TWINING: Yes.  
MR. UNDERWOOD: Underwood, no. Viles. Wheeler.

Whitfield.

MR. WHITFIELD: Yes.  
MR. UNDERWOOD: Wilson.  
MR. WILSON: No.  
MR. HANNAH: Tabulations on the roll call vote.

Thirty-one yes; thirty noes; and zero recorded abstentions. Motion passes, and the language stands by Mr. Hoskin.

Mr. Dowty, you are recognized, sir.

MR. DOWTY: Mr. Chairman, could we put up the present language of the motion on the floor?

MR. HANNAH: It's on its way momentarily.

MR. DOWTY: Mr. Chairman, Delegate Dowty. When the previous motion was made to strike the language, "shall be headquartered in Washington, D.C.," at the time of that strike, the word "and after D.C." was left and was not a part of the motion, but it is proper that that be stricken. I'd ask by consent that that "and" be stricken so that the language may be in conformity.

MR. HANNAH: Chair hearing no objection will instruct the scribe to do so.

MR. DOWTY: In the 5th line near the end after congress.

MR. HANNAH: Hearing no objections, it is so entered.

MR. KEEN, JR.: Mr. Chairman.

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

MR. KEEN, JR.: Mr. Chairman, we spent a considerable amount of debate on this, and I feel before we invest more time trying to work out the details, that I would call for a division of the question.

And I propose that we divide it beginning at the top in accordance with Article XII, continuing down, "there shall be created an office of delegate to congress." Divide the question right there, after congress, that we take up that issue and try to determine that first before we invest any more time on fine-tuning it. That is my motion.

MR. HANNAH: There's a motion on the floor to bifurcate the section, two sections with the first. And I will paraphrase, in other words, looking at the question of shall we in fact have a representative to congress.

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

MR. HANNAH: And secondly, the second part of the division would deal with how that is to be carried out. And the motion is on the floor; is there a second?

DELEGATE: Second.

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

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

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: Delegate Cornsilk. I have a question as to the right of the delegates to vote. We had previously discussed not permitting anyone to enter and have the right to vote if they did not attend a greater portion of this convention. Am I just completely out of sync with what we talked about?

MR. HANNAH: I believe, sir, that you raise an issue that needs to be clarified because we have had, in fact, delegates to arrive. The earlier decision --

MS. MASTERS: Point of clarification.

MR. HANNAH: One moment. Let's deal with one of these things at a time. We have a question on the floor.

MR. KEEN, JR.: The delegates that I'm aware of that arrived, arrived this morning and would therefore have participated in the debate that we've had today. Is that -- are you making specific reference to someone?

MR. CORNSILK: My understanding was that if they didn't attend the greater portion of this convention, they could sit in but they would not be allowed to vote on anything after they got here.

MR. KEEN, JR.: No, that has not been the intention of the convention, as I understand it.

MR. CORNSILK: Okay. Well, I'm not trying to take away anybody's vote, I just wanted -- if we decided that, I wanted us to stick by it. If we didn't, then we can proceed.

MR. JOHN KEEN: Mr. Chairman, I did raise the issue that there was -- the commission did state that ten o'clock 10:00 --

MR. HANNAH: You'll be recognized first, sir. And we are going to keep this thing under control. We have a lot of people that is wanting to talk. All right, have you concluded, Mr. Cornsilk?

MR. CORNSILK: I am concluded.

MR. HANNAH: Thank you very much. And the good lady is recognized.

MS. CHAPMAN-PLUMB: I would defer to Mr. Keen, Jr.

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

MR. JOHN KEEN: Thank you. John Keen, delegate. We did discuss, if I recall, the Commission did state a deadline of ten o'clock a.m. Saturday for seating delegates.

MR. HANNAH: Mr. Keen.

MR. KEEN, JR.: That is correct, so what are you -- I'm missing your point.

MR. JOHN KEEN: My contention is, delegates seated after do not have a vote.

MR. LITTLEJOHN: Point of clarification. Did we identify who they're talking about?

MR. HANNAH: I believe it would be in reference to Delegate Stopp.

MR. LITTLEJOHN: Point of clarification. But did not the body ask if they had any objection to his sitting, participating, and being fully recognized as a delegate at the time he was seated?

MR. HANNAH: Chair recalls such, yes. And with no objection.

MR. JOHN KEEN: Point of order.

MR. HANNAH: Order.

MR. JOHN KEEN: Change in rules requires two-thirds vote.

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

MR. KEEN, JR.: Let's see if we can work this out. The ten o'clock cutoff, and please help me out, my fellow commissioners, was that made a part of our standing rules, first of all?

MR. HANNAH: Well, we'll just take a look at that, and the answer is, no such rule appears in the standing rules that have been adopted by the convention.

MR. KEEN, JR.: That rule was one that was orchestrated by the Commission itself, and I believe Dr. Gourd would concur with me on this, that that rule was created in an attempt to -- with respect to the seating of the alternate to try to get a full compliment of delegates. We have never reached that compliment, even from day one.

So, Mr. Gourd, what is your recollection of that ten o'clock cutoff?

MR. GOURD: That is exactly the point, sir, was that if the delegates were not here and alternates were available so we could achieve the full compliment, which we did not. There was no intent not to seat a delegate when they could attend.

MR. HANNAH: Chapman-Plumb is recognized, and kind lady, thank you for your patience.

MS. CHAPMAN-PLUMB: I would just move to limit debate on the first portion of Section 12, three for, three against, limit each the --

MR. HANNAH: Motion's been made to limit debate.

DELEGATE: Second.

MR. HANNAH: And has been seconded. And all those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no". And floor is open for debate.

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

MR. HANNAH: Yes, sir.

MR. CORNSILK: I'm not satisfied with our previous address of my question. I would like to know if an alternate was seated for Mr. Stopp.

MR. HANNAH: Very well. The convention will stand five-minute recess. And the commissioners will confer with the Credentials Committee.

MR. JOHN KEEN: Mr. Chairman.

MR. HANNAH: We are at recess, Mr. Keen.

(recess taken)

MR. HANNAH: Mr. Keen, you are recognized, and by way of explanation of the intent of the Commission.

MR. KEEN, JR.: Thank you, Mr. Chairman.

MR. HANNAH: Let's settle down now, folks. Kind delegates in the back take your seats, thank you. Once again, Mr. Keen, you're recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman. I'm going to attempt to explain the rationale behind the Commission's rule of this ten o'clock cutoff that took place on Saturday.

Originally we had -- obviously, we had selected seventy-nine delegates and eighteen alternates to serve as this body. We had to come up with some kind of system of deciding when we would determine whether alternates would be needed and seated, and we determined that to be ten o'clock of Saturday morning, and that was the only purpose for that rule, was for the seating of alternate delegates.

As this has played out, we have never reached a full compliment of seventy-nine; therefore, we've never needed to take up the issue of alternates. We've allowed those who -- whoever showed up, up to that seventy-nine to be seated as a delegate.

This morning we had Mr. Stopp come in and register and the Commission did take a five-minute straw vote outside prior to his seating, and we felt like there would be no harm in allowing this delegate to join the body, being that he was coming in at the beginning of day. And we, in fact, this morning in our opening ceremonies, we asked him to be sworn in, and no one raised an objection at that time, either.

Now his status as a delegate has been brought into question. So now I've explained the intent of the ten o'clock rule.

I've explained when and why Mr. Stopp was seated. And with that, we have no other controlling rule on this topic.

MR. HANNAH: Therefore, it shall be the voice of the delegates whether Delegate Stopp, in fact, will be invited to retain his seat with voting powers.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk.

MR. CORNSILK: I would make a motion that Mr. Stopp be admitted and have voting rights.

DELEGATE: Second.

MR. JOHN KEEN: I second that, also.

MR. HANNAH: All in favor.

THE DELEGATES: Aye.

MR. HANNAH: Thank you very much. Mr. Stopp, once again, welcome.

The Chair will recall that we are three for three with regard to the debate with the second of the three speakers on the floor, and that would be Mr. Smith, and you are recognized.

MR. SMITH: Mr. Chair, I've got some consolatory language I would like to amend, may resolve the impasse. I would propose that there --

MR. KEEN, JR.: Point of order.

Mr. Chairman, point of order.

MR. HANNAH: I'm so sorry. Mr. Keen, you are recognized.

MR. KEEN, JR.: As I understand, we have agreed and voted to in fact a division of the question; is that correct?

MR. HANNAH: Yes, we have. Help me delegates; we did that, correct?

THE DELEGATES: Yes.

MR. HANNAH: Okay. So we are at debate --

MR. KEEN, JR.: On whether or not an office of delegate to congress should be created.

MR. HANNAH: Yes.

MR. KEEN, JR.: If that is the question before the floor, I ask Mr. Smith if his proposal is germane to that limited issue.

MR. HANNAH: That's a good question. Mr. Smith.

MR. SMITH: Goes to the second paragraph.

MR. HANNAH: In that case then, we are at debate. Ladies and gentlemen, the first of the serial. Anyone rise in opposition? Anyone rise in support?

Mr. Littlejohn, you reached for the microphone; you are recognized.

MR. LITTLEJOHN: Mr. Chairman, I'm asking for a point of clarification.

MR. HANNAH: And you'll have it.

MR. LITTLEJOHN: We are trying to create an office of Delegate to Congress. Yet, I look at the Treaty of Hopewell and there we were given the right to send a deputy, and in the Treaty of New Echota, we were entitled to a delegate in the United States House of Representatives, not Congress, but whenever Congress shall make a provision for the same. And my inquiry I guess is, should we not be consistent to some degree?

MR. HANNAH: And perhaps the Chair is being presumptuous, but we would not have the ability to make a correction to either of these treaties. We've long signed these things, Mr. Littlejohn.

Although, with the way that sometimes we've proceeded, we might be able to call the government and say, "No, we've changed our mind on these things."

Perhaps I'm misunderstanding, sir.

MR. LITTLEJOHN: I would move that we amend the top portion of Section 12 to create an office of delegate to the House of Representatives.

MR. HANNAH: Very well. The Chair seeks a clarification of your motion. The motion is on the floor; is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. The floor is open for debate. Seeing a delegate rise in opposition to the amendment brought by Mr. Littlejohn.

MR. CLARKE: Call the question.

MR. HANNAH: We have a clarification before the question is called, sir. You have clarification?

MR. CLARKE: I'll speak loudly. William Clarke, delegate from Muskogee. Mr. Littlejohn, will you say the delegate to the House of Representatives -- okay.

MR. HANNAH: Now, the author of number eighteen has now moved to words now. Mr. Littlejohn has accepted, and whoever gave that second does not object. And hearing no further debate with the question being called, all of those in favor of Mr. Littlejohn's amendment, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And the language is entered, and we are still about the process of debating the first serial of this section. Does anyone rise in opposition or in support?

Hearing absolutely no objections, then the Chair will move to bring the question before us, which is, that in Section 12:

"In accordance with Article XII of the treaty with the Cherokees, dated November 28, 1785, (Treaty of Hopewell) and Article VII of the Treaty with the Cherokees, dated December 29th, 1835, (Treaty of New Echota) there shall be created the office of delegate to the United States House of Representatives."

There will be a period, I assume at the end of this sentence. And all those in favor, signify by saying "aye."

THE DELEGATES: Aye.

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

DELEGATE: No.

MR. HANNAH: Motion carries. First serial stands. We're now at debate on the second serial. How rise you young lady from the west? You do not. Mr. Smith, you are recognized.

MR. SMITH: I would offer an amendment with, "and who shall be a citizen of the Nation and," right there, insert the language, "and upon recognition by the United States shall be seated in accordance with federal law." Strike the balance of that sentence.

MR. HANNAH: There's an amendment on the floor provided by Mr. Smith. Is there a second?

DELEGATE: Second.

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

MS. MASTERS: Question.

MR. HANNAH: How rise you?

MS. MASTERS: Yes. I was deferring to Delegate Smith hoping that he was going to put an age limit in there. We have an age limit for our other officials, and I was --

THE DELEGATES: With federal law.

MR. HANNAH: Are you satisfied?

MS. MASTERS: Yes.

MR. HANNAH: Yes, good doctor, you are recognized.

MR. ROBINSON: Point of information.

MR. HANNAH: Point of information, you are recognized. You gentlemen caucusing there will step back from the microphone. Thank you.

MR. ROBINSON: Delegate Rick Robinson. This is just a -- probably something for the Style Committee, but I wouldn't want something technical to come up later. But where it starts out "appointed," there probably needs to be some language there. I just wanted to point that out.

MR. HANNAH: There needs to be some language there.

MR. ROBINSON: I'm a pretty sorry writer, but I will probably notice that myself.

MR. KEEN, JR.: Point of clarification.

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

MR. KEEN, JR.: Just to ease the good doctor's mind, we bifurcated this issue, and whenever we vote on the second half, we will in fact make it one complete paragraph then. In fact, she could do it now.

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

MR. CORNSILK: Mr. Chairman, I rise in favor on this amendment. Surprisingly, Chad and I agree on something.

MR. HANNAH: Let the record reflect.

MR. CORNSILK: What I believe this does is a good compromise between those persons who would like to see the initial person appointed by the Principal Chief, and eventually this person would come under the jurisdiction of federal law, and we would probably get to elect this person. Thank you very much.

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

MR. BILL BAKER: Mr. Chairman, we have made history in the Cherokee Nation, as I also agree with both Mr. Cornsilk and Mr. Smith.

MR. HANNAH: And the blood lines are now rekindled.

MR. LITTLEJOHN: Mr. Chairman.

MR. HANNAH: Mr. Littlejohn.

MR. LITTLEJOHN: May I offer a friendly

amendment and join this gathering?

MR. HANNAH: Bring your hammer out, Mr.

Littlejohn. The nail is before us.

MR. LITTLEJOHN: I would move that we amend the top of the bottom portion.

MR. HANNAH: Top of the bottom portion.

MR. LITTLEJOHN: The word "appointed," and there insert, "until Congress shall make provisions for the delegate, he/she shall be" -- "until Congress shall make provision for the same, he/she shall be."

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

MR. SMITH: It complicates things. I would reject that amendment. I would ask that we make consistent the delegate to the representative of House of Representatives and bring it down to the second paragraph, "the delegate to Congress," make that "delegate to the House of Representatives."

MR. HANNAH: Mr. Littlejohn, do you withdraw?

MR. LITTLEJOHN: I withdraw.

MR. HANNAH: The language is before us; the debate is in session, and any delegate to rise in favor or opposition to the question before us at this time?

MR. CORNSILK: Mr. Chairman, call for the question.

MR. HANNAH: The question had been called for. We will vote on the question being called for. Is there a second?

THE DELEGATES: Second.

MR. HANNAH: Okay. We'll end debate with this vote. All of those in favor, signify by saying "aye."

THE DELEGATES: Aye.

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

And therefore, the question is before us. Second serial of bifurcation. "Appointed by the Principal Chief and confirmed by the Council, and who shall be a citizen of the Nation, and upon recognition of by the United States shall be seated in accordance with federal law.

The Delegate to the United States House of Representatives shall endeavor to participate in congressional activities and shall at all times advocate the best interests of the Cherokee people. The delegate to Congress shall make regular reports to the Council and Principal Chief on congressional activities and administrative matters relating to Federal Indian Policy and shall produce an annual report to the Cherokee people."

MS. LINNENKOHL: Point of order.

MR. HANNAH: Point of order. Delegate Linnenkohl, you are recognized.

MS. LINNENKOHL: Are we not at this time just supposed to be voting on Mr. Smith's amendment, not the whole paragraph?

MR. HANNAH: Chair would be corrected, Mr. Keen.

MR. KEEN, JR.: That's correct. We need to vote

on Mr. Smith's amendment.

MR. HANNAH: Apologies then to the delegates. The Chair briefly confused there for a moment. And so what we are in fact about to vote on, we ended our debate on the Smith amendment, and the Smith amendment is in fact the underlined and stricken sections; is that correct, sir?

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

MR. HANNAH: I want to make sure, and once again, the Chair apologizes. The vote will be, if you vote in favor, then this language will both be included and stricken as you see above.

And it will read: "And upon recognition by the United States shall be seated in accordance with federal law," "which shall serve a term of two years," to be deleted.

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

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And motion carries, and the language is both added and deleted.

And therefore, we are back at debate on the second serial of this particular section; is that correct, Mr. Vice-Chairman?

MR. KEEN, JR.: That is correct.

MR. HANNAH: All right. Very well. I'm back with you now. Chair will accept delegates that wish to debate in favor of or in opposition of this serial. Gentlemen. Dr. Gourd, you are recognized.

MR. GOURD: Delegate Gourd. I would offer a friendly amendment. My question relates to the phrase "Federal Indian Policy." I would make the suggestion that we not limit ourselves to the delegate being strictly in interest of Federal Indian Policy.

It seems that the entire range and scope of policies and laws of the United States are of interest to us as a government. So it might just -- you know, just suggest it to say "federal law and policy," because there's a lot of agencies and entities out there with whom we yet to have a government-to-government relationship.

So we need to break that new ground and not restrict our delegate to only dealing with Indian policy issues, but governmental policy issues. Thank you.

MR. HANNAH: Mr. Gourd makes a motion for the language to be amended.

MR. KEEN, JR.: I would have no opposition to that, but --

MR. HANNAH: Mr. Underwood.

MR. UNDERWOOD: I have none -- think it's a good idea.

MR. HANNAH: Ms. Coon, would you have any opposition to the language that Charlie has suggested here for us?

MS. COON: No.

MR. HANNAH: And neither does Mr. Hannah. So therefore, the language is accepted by friendly amendment and is

placed in. Floor still open for debate. Mr. Dowty, you are recognized, sir.

MR. DOWTY: Mr. Chairman, Delegate Dowty from Tahlequah. Our clairvoyant honorary delegate has made correction to the language and anticipated my motion.

MR. HANNAH: She's good, isn't she? There's been such a focus on clairvoyancy here, that we thought we would actually kick in here after awhile.

MR. DOWTY: Mr. Smith in his amendment moved for a change of the word "Congress" to "the United States House of Representatives," and I would move that that further be corrected as a body in the fifth line, and it's been done, but by consent, I would ask that that correction be made.

MR. HANNAH: Is there consent from the delegates, please signify by saying "aye".

THE DELEGATES: Aye.

MR. HANNAH: Any opposition? Hearing none, the language stands. Thank you, young lady, all the way from Germany.

MR. KEEN, JR.: Mr. Chairman, I call for the question.

MR. HANNAH: Question's been called for.

DELEGATE: Second.

MR. HANNAH: And has been seconded. Is there any objection? And hearing none, now the Chair will bring us back to the second serial. Is that correct, Mr. Vice-Chairman?

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

MR. HANNAH: "Appointed by the Principal Chief and confirmed by the Council and who shall be a citizen of the Nation and upon recognition by the United States shall be seated in accordance with federal law. The delegate to the United States House of Representatives shall endeavor to participate in congressional activities and shall at all times advocate the best interest of the Cherokee people.

The delegate to the United States House of Representatives shall make regular reports to the Council and Principal Chief on congressional activities and administrative matters related to federal law and policy and shall produce an annual report to the Cherokee people."

All of those in favor of the amendment before you at this time, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: All of those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And the motion carries, and the language stands. And I assume, sir, that we can now bring these items back together and no action would be required further on Section 12 and --

MR. KEEN, JR.: I would agree with that.

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

MR. KEEN, JR.: Mr. Chairman, moving ahead to

Section 13 of the revised Constitution as submitted by the Commission. First of all, I would ask our scribe to again place at the top of this section that this is a new section. This language does not appear in our 1975 Constitution.

The language reads: "In the case of removal, death, resignation, or disability of any of its members, the Council shall fill the vacated seat in the following manner: If a majority of the office's four-year term remains to be served, the Council shall authorize a special election in the district of the vacated seat --" that should be -- that's a Scribner's error. It should be, "to be connected within ninety days. If a minority of the office's four-year term remains to be served, the Council shall elect a replacement who would otherwise be qualified to serve from the district of the vacated seat."

Now, the policy behind this recommendation is this, and this comes all the way back from our very first public hearing and from an issue raised by our fine delegate, Jiggs Phillips. And he had a problem with the current method of replacement and vacated Council seats.

And we took issue with that, and we felt that the system which has been employed in the past did not fairly -- or give the represented body a fair opportunity to select a replacement.

But yet, we also took into account the expense of a special election, even though it's limited to that district, and the logistics of the term, and when the seat may be vacated. And this is a balance of those two systems that we've attempted to merge together.

And let me explain just simply how it would work. The vacated seat, if the seat is vacated for any purpose, you look at the remaining term of the four-year term. If there's more than two years remaining, a special election would be called in that district and the seat would be filled. If there's less than two years remaining, then the seat would be filled by the Council.

Now, this says "elected," I do not mean a candidate from the Council to be elected, but the Council would entertain nominations and different candidates, and the Council would vote and fill the seat for the remainder of that term.

MR. HANNAH: Thank you, Mr. Keen.

MR. KEEN, JR.: My motion is that this be approved by this body.

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

DELEGATE: Second.

MR. HANNAH: There is a second, and the gentle lady from Tahlequah is recognized.

MS. CHAPMAN-PLUMB: It's coming to the point where all of this is starting to blur together and sound alike. I would like to have some hope that if we could decide on a time that we're going to adjourn this evening before we get into all of this.

I'm ready to jump into all of it, but we're weary, and I

think it would help us to know what the plan for the future is going to be. Are we going to recess? It's obvious now that we're not going to finish today. I don't think there's any possibility that we're going to do that.

So why don't we decide whether we're going to be in recess or not, for how long, when we're going to come back, and then we can at least have some hope that we're going to have a tomorrow to have a little rest. I don't think we're making the best decisions nor are we writing the best language that we can write at this point in time, and I think it's only going to get worse.

MR. HANNAH: The gentle lady move to untable the previous motion with regard to the evening's recess?

MS. CHAPMAN-PLUMB: Not the evening's recess. We're talking about staying here tomorrow, now. I want a discussion of that. That's what I'm saying.

MR. HANNAH: Well, and where we are at this time is obviously debate on a motion that is on the floor that has been seconded.

MS. CHAPMAN-PLUMB: Well, I'm sorry, I was too tired to jump up before Mr. Keen read his --

MR. HANNAH: And I understand you're weary, young delegate. And if you would make a motion, the Chair would recognize you.

MS. CHAPMAN-PLUMB: I move that we bring from the table a motion to recess, and a motion to discuss what we're going to do tomorrow.

MR. HANNAH: Now, just one moment, and I apologize but we're going to --

MS. CHAPMAN-PLUMB: That's fine.

MR. HANNAH: The motion that we have on the table is to recess at eight p.m. tonight. So to bring this one up, we need to vote on that one. Is that your intent, or would you like to make a new motion?

MS. CHAPMAN-PLUMB: I'll make a new motion.

MR. HANNAH: There we go. We'll put that one back on the table where it belongs, and you are recognized.

MS. CHAPMAN-PLUMB: I would entertain that --

MR. HANNAH: You would solicit the suggestion of fellow delegates, and the Chair would allow such discussion.

MS. JORDAN: I make a motion that we consider recessing at four-thirty this afternoon.

MR. HANNAH: Tina, you are recognized.

MS. JORDAN: Delegate Jordan. I figured you all knew me by now. Delegate Jordan from Tahlequah. I make a motion that we consider recessing for this afternoon at four-thirty and resuming our work in about two weeks for another three-day period. Let me -- well, if I get a second on that, then I'll give you my idea.

DELEGATE: Second.

MR. HANNAH: The good lady will -- have you in

fact finished your motion, and that is to recess at four-thirty and to reconvene in approximately two weeks; did I understand that?

MS. JORDAN: Approximately two weeks for another three-day period.

MR. KEEN, JR.: Point of order.

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

MR. KEEN, JR.: Correct me if I'm wrong, but did not we debate this yesterday and come to a decision that we would continue in this process until we completed it? If that is in fact the case, your motion is out of order.

MR. HOSKIN, JR.: Point of information.

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

MR. HOSKIN, JR.: Does not a delegate of this convention have a right to make this motion, or are they forever precluded ever again from making a motion to recess? Thank you, Mr. Chairman.

MR. KEEN, JR.: If I may respond. And my parliamentarian can help me with that. The motion was made, discussed, and debated, and voted upon. If we wish to reconsider that, we can. The proper motion would be to reconsider that vote, and it would require two-thirds. And I would consult with the parliamentarian on that.

MS. JORDAN: It is a new motion, and I think our motion yesterday was to continue on for that evening. I'm ready to talk about it again.

MR. CORNSILK: Mr. Chairman, I believe she's trying to make a motion to reconsider.

MR. HANNAH: Just one moment; you're out of order, Mr. Cornsilk.

MR. CORNSILK: Okay. So what is new about that?

MR. HANNAH: Kind lady, the rule of the Chair is that you would be out of order with that motion. You would in fact be proper to move to reconsider, and it would require a two-thirds vote of this body. What say you?

MS. JORDAN: I ask for a five-minute recess.

MR. GUNTER: We have a motion on the floor.

MR. HANNAH: I withdraw the motion and make a motion that we have a five-minute recess.

MS. JORDAN: Point of personal privilege.

MR. HANNAH: The Chair will grant the five-minute recess. Folks, just a minute. We haven't been turned lose yet. We have the business of the Cherokee people here before us, and I understand exactly where we are, and I know exactly what we want to do during this five-minute recess. So think carefully on what you're doing. Take your five-minute recess, and I'll see you all back in these seats in five minutes.

(recess taken)

MR. HANNAH: Convention will be in order. Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, I believe that

Delegate Plumb and several others have an extremely valid point, that we are mentally and physically exhausted by this process, and we need a break. I have visited with a couple of people and there are such diversities as to how long we should take a break.

We have one person telling us we need just one day off and come back Thursday, and another one telling me that we need tonight off and come back tomorrow. I am suggesting that we reconsider our motion to recess, which would require a two-thirds vote, so that everybody -- we have a majority.

MR. HANNAH: That would be correct, Mr. Cornsilk. Where's your motion, sir?

MR. CORNSILK: I make that motion to reconsider that we recess until April the 10th.

MR. HANNAH: Motion on the floor to reconsider.

DELEGATE: Second.

MR. HANNAH: And it has been seconded. Floor is open to debate. Kind gentleman from Webbers Falls is --

MR. POTEETE: In the south of the Cherokee Nation. I want to urge you that -- I think if we come back in however long that is, it takes quite awhile. If you are off and you have to travel from the west coast or from east Texas to go home, repair the damage to your schedule from being gone several days and then get organized to go again.

In this interim, we can refine language, seek some help with expressing ourselves with what we might want to present when we come back, perhaps even have some contact and explanation among ourselves, so we sharpen the focus of our debate when we come back and we know exactly what we need to decide. And it will give us much needed rest. We can't do justice to the process if we continue, as David said. We're just all exhausted.

So I urge you to move along these lines. That's the weekend after April, so people have time --

MR. SMITH: Point of order.

MR. HANNAH: Point of order. Recognize Mr. Smith.

MR. SMITH: I believe once before -- correct me, isn't it before the body whether to reconsider, so it's going to take -- reconsider the decision to recess at eight tonight?

MS. JORDAN: The decision to continue on, I believe.

MR. SMITH: Okay, so before we should address this, should we open it up for discussion, and that will be a two-thirds vote?

MR. HANNAH: Mr. Cornsilk, Chair rules that your motion to reconsider is accepted, but you're out of order with the addendum of implying a date. Will you withdraw that from your motion?

MR. CORNSILK: I will withdraw.

MR. HANNAH: Very well. The motion before us, ladies and gentlemen, is to reconsider the previous action that was

taken by this body to continue the deliberations of the convention.

And the floor is open for debate. Does any delegate rise in opposition to the motion that is before us?

MS. MASTERS: Clarification.

MR. HANNAH: You are recognized.

MS. MASTERS: Thank you. First, don't we have to bring it off the table with a majority vote and then reconsider it with a two-thirds vote?

MR. HANNAH: First of all, ma'am, I would tell you that it is not on the table. It's not on the table. It's yesterday's motion. We are not bringing something off the table. We are reconsidering an action that was approved by this body yesterday. The floor would entertain delegates that would speak in opposition to the motion that is before us. Hearing none --

Just a minute here, folks. That's my line. Mr. Gunter, you are recognized, sir.

MR. GUNTER: Thank you. I think nobody wanted to be first. I object to reconsider the motion because I'm here to complete this task, if possible, and have agreed to stay extra days.

And it's a true hardship to drive back and forth and to live away from home in a motel and to miss your business and be away from your family, and there's more involved to it than just getting a little rest.

I think for the people who have come a distance to be here and are staying in a motel instead of sleeping at home at night are suffering greater discomfort than the persons who live close. And I think that proper consideration is just not being given them.

MR. HANNAH: Thank you, sir. Gentle lady from Tahlequah is recognized.

MS. CHAPMAN-PLUMB: Yes, I'd just like to invite Mr. Gunter to come into my home and take care of my kids between the hours of nine-thirty and six when they are up at night.

MR. GUNTER: I've got two; I'll trade you.

MR. HANNAH: How do you rise, Delegate?

MS. CHAPMAN-PLUMB: I rise in favor of the motion to reconsider. I would just like to point out that what we are doing is so extremely important. Why are we in a rush? We're trying to create something -- I would like to create something that would last for two hundred years. We can't do that in a marathon. We need to be deliberate. We need to be methodical, and we have done that up to this point.

And we're not going to be able to do that if we come here in the morning and worry, first of all about whether or not we even have a quorum. I'm just trying to get us to face the fact that if we are going to continue at the pace that we're going at, which I believe is a good one and has been very productive, and I'm so extremely proud of the work that we have done; I would just like to maintain that quality. There is no reason to be in a hurry and to be exhausted.

MR. HANNAH: Thank you very much. Gentle lady

from Tahlequah is recognized.

MS. HAGERSTRAND: Mr. Speaker, I would say that there is a reason for us to keep going. The arrangements have been made for us to have this building. The arrangements have been made for people to fly in from afar. I am here in Tahlequah, granted, but also, if somebody just can't stay, they're so tired, then they should go home. They may be excused.

But some of us took an oath to stay here until we got it done, and I want to stay here until we get it done. I don't want to keep jumping back and forth all the time. We made a commitment. We said, "Yes, we will." And you could be excused for a while. You can go home and rest, and I'll stay.

MR. HANNAH: Delegate rise in support of the motion that is before us.

MS. SCOTT: I do. Deborah Scott, Houston. And I'm one of those who traveled a long way, and that's really not why I am speaking up for this. I think that no matter how hard and how long we work, we're not going to have a perfect document, so we can only do the best that we can do.

The fact that we've been rushed through here, I think is a moot point. I don't think we've rushed through anything. I think we have discussed everything at nauseam, so I do not feel like we are rushing anything.

So I think if we had fifteen days, we would take fifteen days. We're going to take as long as we have to do the job. So I think that it behooves us. I think we're wasting a lot of time prematurely in debating this at this point. I think we should continue to stay through tonight and through tomorrow and then address it then tomorrow at five and make plans if we're not well on our way then.

But I think we're spending a whole lot of energy on something that we're not ever going to come to consensus about, and we need to be about the business of doing what we have committed ourselves to do.

MR. HANNAH: You're in opposition, I guess?

MR. SCOTT: I'm in opposition.

MR. HANNAH: You're correct, kind delegate. I was just going to point out to the kind lady from Texas that that's the worst opposition I've ever heard in my life. Any delegate rise in favor of the motion? Tina, you are recognized.

MS. JORDAN: Delegate Jordan rises in favor, but I would defer some of my time to Delegate Cornsilk.

MR. CORNSILK: Mr. Chairman, Delegate Cornsilk.

And those of you with lots and lots of time on your hands, I made a commitment to be here, and if this body says I'm to be here, I will be here.

I guess I'll just say it. It really hurts my feelings when people rise to say, you're not giving due consideration to the fact that you all flew in, that you all are capable of being here and that you all are making a commitment, and that implies that I'm

not.

I think due consideration needs to be given to everybody's situation. I think everybody that is here has something to contribute to this process. I think this process is going to take us a lot longer than tonight and tomorrow. I think that if anybody can't see that, they probably need glasses as bad as I do.

This process has taken a long time. And I really think we need to take the time and postpone this. I'm not saying that we should leave right now; let's go ahead and stay here for the day, maybe even stay for tomorrow. But at some point, let's face reality, and adjourn to another day when everybody can come back.

Everybody who has diverse views, everybody who might be on one side or another of the controversy, I want us all to be here to do this process. Because at some point, somebody is going to say, let's pass something, and it's going to be a great idea, something wonderful, and it's going to be outside this room, not in here where it needs to be. Thank you.

MR. HANNAH: Second delegate wish to use the remainder of the time?

MS. JORDAN: Yes. I would just mention in favor of this motion to reconsider that at this present time we've lost approximately twenty percent of our delegates. I don't think the idea was to stay here until the point that we have the last man standing to make the final decisions.

Folks, we're just saying that we're weary, we're tired. You don't do your best work when you're in that position. I would suggest; I'm not married to any amount of time. I don't care if it's next weekend or the weekend after. We need a couple of days to regroup and continue on our march. I speak in favor again of the motion to reconsider.

MR. HANNAH: Thank you, ma'am. Kind delegate is recognized.

MR. DOWNING: I would like to make an observation. I am probably one of the oldest members here, and my previous colleague; we are both here; we're willing to stay. We have the stamina to stick with it. What's the matter with the rest of you? Oh, I'm against it.

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

MR. RUTLEDGE: I'm speaking in favor. I think yesterday we had a rather lengthy debate whether a majority of five could make decisions for the Nation. What's happening now is we are seeing people leaving. We lost sixteen delegates since yesterday. We are going to lose a lot more by tomorrow. And by Wednesday you may well not have a quorum.

We're in the same position. We were arguing with a bad decision yesterday, that for some reason we're going to allow a minority group decide what the rest of the delegates here won't be here to help decide on the debate. I think it's a bad decision to try to stay and keep going and going and going. Thank you.

MR. HANNAH: Dr. Hook, you are recognized.

MR. HOOK: I stand in opposition of reconsidering, which is my understanding of what we're discussing, is actually reconsidering to bring this up again.

MR. HANNAH: This is very true, sir.

MR. HOOK: I agree. I think we should take a break. I think that break should maybe be four or five hours. Maybe we should get out of here by five or six tonight, then come back in the morning refreshed and keep at the business we agreed to undertake.

This has already been discussed. I move that the discussion be limited to two more speakers, two minutes each.

MR. HANNAH: Motion on the floor to limit debate to two speakers, two minutes each for and against. Is there a second?

DELEGATE: Second.

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

THE DELEGATES: Aye.

MR. HANNAH: Those opposed say "no."

DELEGATE: No.

MR. HANNAH: Motion carries, and the Chair will entertain speakers in the affirmative. How stand you, sir?

MR. ROBINSON: Delegate Ricky Robinson. I'm in favor of reconsidering. In reference to Mr. MacLemore, I guess I'm from a weaker generation, just like my children are from a weaker generation, but the thing I'm looking at is, I would like to finish Article V today.

But we're looking at the executive next, the judicial next, and the reality is just to get Article VI and Article VII done, in my opinion, is going to take anywhere from four to eight days at the rate that we've been going, which is I think a judicious rate.

So I am in favor to reconsider and hopefully a motion for us to come back in a few weeks. Thank you.

MR. HANNAH: Chair will entertain a delegate in opposition to the amendment before us at this time. How stand you, Mr. Keen?

MR. KEEN, JR.: Mr. Chairman, delegate Ralph Keen, Jr. I rise in opposition of the motion to reconsider. I would like to remind this body that the commission that is sponsoring this event has worked long and hard, feverishly at some times, with the anticipation and the hope that by bringing this convention about in February that we would at least have a chance of putting up a final product on the May ballot.

And you need to be mindful that if we start taking up this motion, first, the suggestion will be let's recess for a day, and then two days, and two weeks, and two months, and then the Cherokee Holiday, and where does it stop.

You know, we've been given a directive by the voting

constituents of this Nation. That directive was given in 1995. Here it is almost four years later, and it has still not been carried out, although, we have at least started that directive.

And my fear is that if we entertain interrupting this process, it will not only vastly increase the expense, but it will jeopardize the final work of this convention being brought before the people in a timely manner. Thank you.

MR. HANNAH: Does the gentle lady rise in favor or against the motion?

DELEGATE: Opposed.

MR. HANNAH: Opposed. Please hold your comments. Any other speaker rise in favor of the motion before us at this time, that has not been heard? The gentle lady from Tahlequah is recognized. You rise in favor of the motion?

MS. HAMMONS: Yes, Mr. Chairman, I rise in favor of the motion to reconsider, and I apologize for my dress. Perhaps it was a lack of foresight on my part, and some of the other delegates that I've talked to that I didn't lay aside a week or two weeks of my life to do this.

I wish that I had, because as someone said yesterday, this is probably the most important work I'll ever do. And I want to give my very best physical and mental consideration to it. And forcing, I think me or any of us to be here day after day after day until we can just rubber stamp it and say, "It's done; there it is," it's unfair. It's unfair to the Cherokee people. And I'm sorry, if it's going to cost more, if it's going to take more time, but I think that's just the reality. And I would urge that we do reconsider the motion.

MR. HANNAH: Gentle lady is recognized for her remarks against the motion.

MS. CHILSON: Yes, Chilson, Tahlequah. Yes, I'm against the motion. Only because I think, yes, we're all tired. I'm tired; you're tired, but I think we've been going at it a little bit too long. I think we need to pace ourselves a little bit. But that doesn't mean to stop it.

When we accepted this, it was a great honor to me to accept this responsibility, and I certainly feel an obligation to people who are watching us, and they're watching us daily. They're watching the newspaper to see what we come up with.

Speaking as a secretary, I think some of the changes have been just cosmetic. They haven't made a lot of difference in our Constitution. And I think if we watch that, and we agree and get together and work as a body, that we can come up with something we can present to our people.

I am not against leaving early this evening and getting a good night's rest, but I do think we should convene tomorrow morning as planned.

MR. HANNAH: Thank you very much. Speakers pro and con have been heard, and debate is closed. What's the pleasure of the delegates?

MR. KEEN, JR.: Call the question.

MR. HANNAH: Question is called. And with no objection. All those in favor of the motion to reconsider, please signify by saying "aye".

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: Chair is unable to distinguish the vote. And the Secretary is instructed to take the standing vote of the delegates. All of those in favor of the motion to reconsider, please stand. Secretary will count the delegates.

MR. UNDERWOOD: The count is thirty-one, Mr. Chairman.

MR. HANNAH: Sorry, Mr. Secretary, the count was?

MR. UNDERWOOD: Thirty-one.

MR. HANNAH: Thirty-one. Please be seated. Those delegates in opposition to the motion to reconsider, please stand. Secretary will count the delegates.

MR. UNDERWOOD: Twenty-eight. Please be seated.

DELEGATE: Roll call.

MR. HANNAH: Please be seated. Roll call has been called for, Mr. Secretary.

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

MR. HANNAH: Point of order. Mr. Cornsilk, you are recognized.

MR. CORNSILK: Does not the motion to reconsider take two-thirds?

DELEGATE: Yes.

MR. CORNSILK: And thirty-one to twenty-eight is not close enough for a roll call vote.

MS. HAMMONS: I made the motion for the roll call. I withdraw it.

MR. HANNAH: I beg your pardon?

MS. HAMMONS: I requested for roll call; I withdraw that.

MR. CORNSILK: Mr. Chairman, I --

MR. HANNAH: One moment, Mr. Cornsilk. Count was thirty-two in favor of the motion to reconsider, twenty-eight against. And two-thirds required, motion fails.

MR. HOSKIN, JR.: Point of information.

MR. HANNAH: You're recognized, Mr. Hoskin.

MR. HOSKIN, JR.: Charles Hoskin, Vinita. I have a question of the Chair. Can we never again make an amendment that would recess us for any period of time because of the fact that we couldn't reconsider the motion that was made the other day to recess?

MR. HANNAH: We, I think, have just proven the fact, sir, that we have the ability to reconsider.

MR. HOSKIN, JR.: Can we not make a separate

amendment that speaks to our similar concern?

MR. HANNAH: I see your question, and will consult with parliamentarian.

The kind gentleman is asking the question that obviously we would have the ability to reconsider until the world was level. If we then decide that -- in the shift, and the number of delegates change their minds, obviously, we could reconsider.

But his question is, would we have the ability to bring yet a new motion to the floor with regard to the agenda.

MS. LANGLEY: If the body seems to feel that they want to continue working on the activity, so like a motion to recess and come back in certain days, is not in order.

MR. HOSKIN, JR.: Madam Parliamentarian -- or actually, Mr. Chairman, would be more appropriate.

MR. HANNAH: Yes, sir. I'll recognize you.

MR. HOSKIN, JR.: My question isn't what the body feels, because I have a sense of what the body felt on the question of reconsidering that motion. And the fact is, we did not have two-thirds to pass that.

My question is, can no member of this delegation make an amendment at any time -- a motion rather at any time, thank you, to recess. Because of this vote that we lost on reconsideration, are we precluded from ever making a motion to recess?

MS. LANGLEY: To continue my opinion, any motions to recess like for short periods, like overnight, four hours, whatever that the body would choose to do would be fine, as long as the motion wasn't in conflict with the previous motion, which was to continue the activity in a timely manner.

The other motion everyone felt would change, in my opinion, is that whole motion because it was to recess and reconvene in a long period of time away from this.

MR. HOSKIN, JR.: Mr. Chairman, point of information.

MR. HANNAH: Mr. Hoskin, you're identified.

MR. HOSKIN, JR.: Where do we draw the line on time? When do hours and days become in conflict with the motion to reconsider? I mean, when do hours become okay, but a day becomes not okay? Is there a rule of reason?

MR. HANNAH: Mr. Hoskin, you ask a question of the Chair. The Chair is unable to answer. And I would once again refer the decision back to the delegates of this convention. Delegates of this convention will make the decision.

MR. HOSKIN, JR.: Thank you, Mr. Chairman. I yield the floor.

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

MR. CORNSILK: Mr. Chairman, I just had a question. Point of information. Delegate Cornsilk. In matters of standing votes and roll call votes where a two-thirds majority is required, is it necessary to take the noes, to have them stand up?

MR. JOHN KEEN: I call on orders of the day.

We've had our roll call orders of the day.

MR. HANNAH: Mr. Keen has called for orders of the day. And the orders of the day is the items that is before at this time.

MR. CORNSILK: Can you answer my point of information?

MR. HANNAH: Yes is the answer, Mr. Cornsilk.

MR. CORNSILK: Thank you.

MR. HANNAH: And that way you will be satisfied, and Mr. Keen will be as well.

MR. SMITH: Mr. Chairman.

MR. HANNAH: Mr. Smith, you are recognized. And I do hope --

MR. SMITH: You do so with reservation, and justly so.

MR. HANNAH: I had a funny feeling that that would be the case, sir. But then again, the Chair has been shocked on previous occasions.

MR. SMITH: I'm a bit taken back by the commission's representatives suggestion that this product is going to be on the May 22nd ballot. That's disturbing to me. Therefore, I move that we adopt a policy that there be at least a four-month period of public inspection and comment before our product ever is proper for a ballot.

DELEGATE: Second.

MR. HANNAH: There is a motion on the floor, before the product of this convention is presented, that there be a four-month --

MR. SMITH: At least.

MR. HANNAH: At least a four-month period of time for a presentation, and there has been a second. The floor is open for debate, and where speakers rise in opposition before the motion before us at this time.

MR. CORNSILK: Mr. Chairman.

MR. HANNAH: Mr. Cornsilk, how rise you?

MR. CORNSILK: Mr. Chairman, I rise in favor of this motion. Delegate Cornsilk. Having been, and I think this may be patting myself on the back, in the forefront of trying to keep public members informed. I can tell you how difficult it is. And I'm sure the delegates who are from out of state will concur that information filters to them quite slowly, and it takes a while for the tribal members to digest this Constitution. It's a big chunk of information to digest.

And I would concur with Mr. Smith that we really need enough time to educate our Tribal members as to what they are doing.

Cherokee people are cautious in their changing. They don't like change; they don't like a lot of change.

And so I think just the fact that they have a tendency to keep putting incumbents back into office is a good indication that they don't like a lot of change. And so I would stand in favor of

that, that we need to give them plenty of time to digest.

MR. HANNAH: Thank you, Mr. Cornsilk. Does any delegate rise in opposition to the motion that is before us? Mr. Keen, you are recognized.

MR. JOHN KEEN: John Keen, delegate. I understand four-month period would put us to July 1st, well after the elections. We have been talking about expense, and I admit, you know -- you know, people have raised an issue of expense at their leisure in here, but it is an issue.

There's always the expense of calling a special election or waiting two or four years to get it in front of the voters again.

Will that happen? I don't know, but I tend to doubt that that would happen if we don't give it the chance when we are guaranteed to give it a chance.

We have a chance in front of us to complete our work, have it approved by the federal government as we've imposed on ourselves, and also get it to the Cherokee people. If we take a four-month recess to July 1st, we are not guaranteed that, as Mr. Poteete in earlier discussion of this, a day or two ago raised a point that if Council had to extend the legislative act empowering us. He thought they may do that. Well, I read the act and I don't know if they need to or not. Thanks for the confidence, Mr. Baker.

But I submit to you that there's a chance that we may never get it in front of the voters if we don't do it now. We'll have a new Council by July. What if they decide to abolish the legislative act and we can't get it in front of the voters, then all of this is for naught. I think it's just -- it's just ridiculous to try to put it off. You know, we have a guaranteed chance to make the necessary changes, and let's take advantage of it.

MR. HANNAH: Mr. Keen, stay close to the motion.

MR. SMITH: Point of order.

MR. HANNAH: Yielding the floor. Point of order is recognized from Mr. Smith.

MR. SMITH: My motion was not to recess until July. My motion was that we guarantee at least a four-month period of public inspection.

MR. HANNAH: And thank you for point of clarification. The Chair was in fact clear in his restatement of your motion. The motion before us is that at least a four-month period of time would be taken between the finalization of this product before it would be presented to the voters of the Cherokee Nation.

How rise you, good doctor?

MR. ROBINSON: Delegate Ricky Robinson, Tahlequah. I need to have a point of clarification before I decide if I'm for or against and, may I do that?

MR. HANNAH: The Chair will indulge you, sir. What's your question?

MR. ROBINSON: Mr. Smith, Delegate Smith.

MR. HANNAH: By the Chair, sir, what do you

need?

MR. ROBINSON: Okay. I'm sorry. What I'm wanting to know is, based on Delegate Smith's motion, is the intention that after this four-month period that we have to come back and have another constitutional convention?

MR. HANNAH: The Chair would once again restate the motion that at least four months would pass between the completion of the product of this convention before it would be placed in a vote for the people of the Cherokee Nation; is that correct, Mr. Smith?

MR. SMITH: That's very correct.

MR. HANNAH: All right, sir. Are you clarified on that, sir?

MR. ROBINSON: Yes, I appreciate that.

MR. HANNAH: How stand you for your remark?

MR. ROBINSON: I'm standing in favor of that. And earlier I was not, but I am now. I think this is important enough to do this. I still think it's going to take us two to three weeks to get finished here. But then, you know, I think the people should have that time. And I do appreciate that.

This is out of order probably, but whenever we do recess tonight, I would like for us to recess after Article V is done and not start Article VI today. I'd like to have a clear mind.

MR. HANNAH: Take the chair, good doctor, thank you very much. Would the kind lady from Tahlequah yield for our kind lady from Ramona?

MS. CHAPMAN-PLUMB: Certainly.

MS. McINTOSH: Mr. Chairman, Dorothy Jean McIntosh, Ochelata.

MR. HANNAH: How do you rise from Ochelata?

MS. McINTOSH: I need some information before I can decide.

MR. HANNAH: Chair will entertain you. What is your question?

MS. McINTOSH: My question is, has the convention already done its work? I would ask Mr. Keen to clarify that we have been asked to look at the Constitution every twenty years. Have we indeed done that? Can we ask for an adjournment and say that we have indeed looked at it and it's to status quo?

MR. HANNAH: I believe that Commissioner Keen can in fact address that issue. Mr. Keen.

MS. CHAPMAN-PLUMB: On order.

MR. HANNAH: On order.

MS. CHAPMAN-PLUMB: I don't believe that's germane to the motion that was made.

MR. HANNAH: That is in fact ruled correct by the Chair. I'm sorry, ma'am, but by point of information, if you wish to take Mr. Keen sidebar, and he'll explain it to you.

Chair will entertain debate at this point with regard to the motion before us, and Delegate Chapman-Plumb is recognized.

MS. CHAPMAN-PLUMB: I rise in support. Just a couple of things to think about. The Constitutional convention of the United States of America lasted for four months. The comment period. And, yes, there was a comment period. Got this straight from a drafter; won't name him, but the '75 Constitution, there was a one-year comment period.

Let's have a little faith in our ability to act as a people and to govern ourselves. We can do this in a rational and a reasonable and a timely manner. We're not enacting a Constitution in reaction to -- or we're not recommending a Constitution in reaction to any of the political events that have happened over the last two years.

I would hope that everybody's decision-making has been with regard to what is going to be the best document for a long period of time, and I think we're getting there. But I don't think that hurrying is going to help. And if you think the federal government is going to act on it before our May ballot, gosh, just look at how long it took them to try and acquit Bill Clinton.

MR. HANNAH: And the Chair thanks the gentle lady for clarification on having contact with the original drafter, thinking for a moment she was in a draft of the United States Constitution. And the Chair would be interested in meeting that individual.

Kind lady from the west is recognized.

MS. FOSTER: Julia Coates Foster from Albuquerque.

MR. HANNAH: How rise you?

MS. FOSTER: I speak in favor of this motion, and in response to something that Delegate Cornsilk stated, actually. Several years ago there was an amendment to the Constitution concerning the residency of the candidates for Chief and Deputy Chief, which was placed to the voters here. In Albuquerque, we never heard about this, and one of our colleagues there in Albuquerque was the man who actually brought the lawsuit challenging this function on the part of the Council, and yet, we never heard that there was a proposed constitutional amendment, and we're only ten hours away by car.

So it left, you know, a really -- I'm not saying that we would have disagreed with this, but I'm saying that something like that that had a very direct impact upon us. As non-resident voters, we really should have been informed about it. And it left a very, very bad taste in our mouths that we hadn't heard about it.

We were left with the feeling that something furtive and secretive had been done. Something was, you know, just rammed through real hard and real fast and nobody, you know, knew quite what was going on here, and you had different populations that were deliberately not being informed perhaps. You know, I'm not saying that that's the case, but that was certainly the feeling that was left with us.

Now, this Constitution directly impacts in some way,

shape or form every citizen of this Nation, and I don't want anybody feeling like something secretive, something furtive, some deliberate, something hasty was forced upon them in the way that we sort of felt about this other constitutional amendment. Thank you.

MR. HANNAH: Thank you very much. Dr. Gourd, you're recognized.

MR. GOURD: Thank you Mr. Chairman, Delegate Gourd from Greater Keys, America. I rise in opposition to this motion. As we briefly have had the opportunity to discuss from the point of view of the Commission, we have the deadline of April the 15th for publication.

We have plans in place to make sure that every registered qualified and whatever other voter there is will receive a copy of this. And I just think that it's inappropriate at this point in time to take another hour-and-a-half of time which we could be devoting to discussion of issues of why we're here, seems at this point in time, virtually on the absurd. Thank you.

MR. SMITH: I would like to --

MR. KEEN, JR.: Point of order.

MR. HANNAH: We'll be in order. And the good lady --

MS. STARR-SCOTT: Point of information.

MR. KEEN, JR.: Point of order.

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

MR. KEEN, JR.: Mr. Smith has already spoken on this issue once. The rule that we adopted states that you do not speak again until everyone else has spoken.

MR. HANNAH: Now, folks, just a minute here. And thank you, sir, for that. But the kind lady from Oochey will be recognized by the Chair.

MS. STARR-SCOTT: Starr-Scott from Oochey, Oklahoma. I just wanted to make a comment on what the lady said about the residency requirement. That was a legislative act and not a constitutional amendment on the Chief and Deputy.

MR. HANNAH: Thank you for the point, and thank you for yielding the floor.

MR. CORNSILK: I've already spoken.

MR. HANNAH: Gentlemen, I've seen both of you here before.

MR. SMITH: It will be very brief.

MR. HANNAH: And because the Chair throughout the entirety of this convention has allowed a great deal of fairness to be brought forward, because of --

DELEGATE: Call the question.

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

DELEGATE: Second.

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

THE DELEGATES: Aye.

MR. HANNAH: All those in favor did say "aye."  
Those opposed "no."

THE DELEGATES: No.

MR. HANNAH: And the question is before us at this time. The motion has been made, and Mr. Smith, I will try my best, sir, and please feel free to edit anything that I have if I do not state it properly.

But your motion is, that a period of time, not less than four months, will elapse after the product of this convention is complete before the product of this convention is placed before the voters of the Cherokee Nation; is that correct, sir?

MR. SMITH: That's correct. Notwithstanding Mr. Gourd's imposed schedule.

MR. HANNAH: I'm sorry, sir, I --

MR. SMITH: Let me strike that, please.

MR. HANNAH: I was going to say, sir, perhaps the Chair being from Adair County a bit slow, but did not understand your comment. Your motion is in fact before us as stated, and the question will be called.

All of those in favor -- all of those in favor of the motion before us -- delegates will be attentive in the chamber to the vote. Delegate Hembree -- Delegate Hembree, it's an important vote, sir, and I would care -- have your seat, sir, and ask you to draw close.

All of those in favor of the motion before us 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 motion carries. Mr. Smith, will you in fact, sir, help in drafting the exact language of that?

I want to make sure that we have that entered here, although, it is part of the record, I guess.

MR. SMITH: Yes, sir.

MR. CORNSILK: Point of information.

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

MR. CORNSILK: Delegate Cornsilk. I just cannot stand whenever someone has been misinformed. Mrs. Coates and Mrs. Scott, there was a legislative act --

MR. HANNAH: Well, first of all, sir, the Chair would ask what you are speaking to, just so we could all be on the same page.

MR. CORNSILK: Okay. She got up and said there was a constitutional amendment and they weren't informed, and then Mrs. Scott got up and said that it was a legislative act. Mrs. Scott is incorrect halfway. There was a legislative act. That act was then found to be unconstitutional by the Tribunal, and it was placed on the ballot by Chief Mankiller and was voted on.

MR. HANNAH: Thank you for supplying the remainder of that information.

Mr. Hembree, you are identified, and the Chair, of course, publicly apologizes if you felt that you were chided. You were not, simply the vote was about to be taken, and I wanted to make sure that you and Delegate Chapman-Plumb was in the room with us.

MR. HEMBREE: Thank you for your consideration, Mr. Chairman. And I have orders of the day.

MR. HANNAH: Order of the day is, ladies and gentlemen, and the Chair recognizes Mr. Keen. We are about to debate the new section of Section 13, and the Chair is open for debate. And the good man from Westville is recognized.

MR. PHILLIPS: Mr. Chairman, Harold "Jiggs" Phillips, Adair County. Mr. Chair, I would like to put forth an amendment. I have discussed this proposed amendment with, not all members of the commission, but some members of the commission, and I've received their approval of this proposed amendment.

My amendment would read something like this, and I would be susceptible to some suggestions as to the wording, but it would be something like this:

"In case of the removal, death, resignation or disability of any of its members, the seat shall be filled by the candidate having the next highest number of votes in that district and who is eligible as confirmed by the Election Commission and who is available and willing to serve at this time."

My reasoning here is, this would eliminate the necessity of a special election to fill a vacancy in the Council. Also, it would put the selection of the candidate in the hands of the people of that district in which the vacancy occurred, rather than having that selection be made by people from another district as in the case of a selection by the Council.

So I will put that in the form of an amendment, Mr. Chairman.

MR. HANNAH: Chair hear a second?

MS. MASTERS: Yes, second the motion.

MR. HANNAH: There is a second. And if the kind gentlemen would assist the scribe, we would bring the language up on the screen. Thank you, Mr. Phillips.

Chair will assume that we were all good listeners, and if you would wish to --

MS. MASTERS: My motion was almost word for word the same.

MR. HANNAH: Excellent.

MS. BERRY: Point of information.

MR. HANNAH: Point of information by the good lady from Texas. You are recognized.

MS. BERRY: Thank you. Martha Berry. Does the term "in the district," is that adequate language to include our new at large district?

THE DELEGATES: Yes.

MR. HANNAH: I don't know who said "yes." I

hope they knew what they were saying.

MR. ROBINSON: I said "yes."

MR. HANNAH: Thank you very much.

MR. ROBINSON: Thinking out loud again.

MR. HANNAH: There you are. Ricky, you are recognized, sir. What brings you to the podium?

MR. ROBINSON: Delegate Rick Robinson. I am in favor of this amendment. I do want to point out one item that we may not have thought of, and Delegate Whitfield is the one that thought of it.

There is an instance that many -- we could have a district that may, let's say, have one representative and only one representative run, and then if something happens to that representative there is no one behind him.

I know just looking at this election, we do have one district that only has two people running, and I know it's out in the field, but one person could pass away and then another one come in. And it could happen that they have no one to fall down to. So that's just a point I want to bring out. Thank you.

MR. HANNAH: Point well taken. Thank you. Mr. Cornsilk, you are recognized.

MR. CORNSILK: Mr. Chairman, I rise in opposition to this, not because I don't think it's a good idea. I'm opposed to it because there is always the potential, and we've seen it in a couple of instances where the next highest vote-getter moves out of the district, passes away, and pretty soon we're down to the dregs. We're down to the bottom of the barrel, and the person who got two votes then becomes the Council candidate.

We have a process in place that's legislatively mandated.

It has worked in the past. Jiggs Phillips was put on the Council in his first term in that process, and it's -- you know, it's not a bad deal.

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

MR. HEMBREE: The attentive Mr. Hembree, delegate from Greasy.

MR. HANNAH: Thank you very much, sir.

MR. HEMBREE: I rise in opposition of the amendment as stated. I do not like the idea of limiting the pool of possible councilors to only those who file for election. I believe the way the original language was stated that if there is a majority left in that person's term, there should be an election. No question about it. Serve out that term. That will now, I guess, count against your term limits. My guess. But we'll hush up on that.

But if a minority of the time is out there, it's up to the Council or our elected representatives to take whoever is best available out there, who may not even have been old enough to file for election at the time, to take that person and to appoint them. I think that's the most reasonable way to do this.

To amplify the words of David Cornsilk, you know, you get 3rd, 4th, 5th, if there's even that many people who actually register, and those may not be the most desirable people that we should have to appoint. I think it's more logical to let the Council choose from a whole pool of people. And so I rise in opposition.

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

MR. BILL BAKER: Thank you, sir. I also rise in opposition. I think that that is something that would be better left of the Council. Plus, with the -- we might consider the language to -- if they -- that they -- that seat would be reelected at the next regular election, and if it's in midterm, somebody could run for that seat for two years.

But we're -- you know, at worst case situation, we're not going to be -- like right now, worst case situation would be four years. Worst case situation when this Constitution passes, is two years. I think it would make a great deal of sense to allow the Council to make their rules for filling their seats and maybe stipulate it to where they might, if it's a four-year term and it's done in the first two, that it be put on the next ballot.

MR. HANNAH: Thank you, Mr. Baker. Delegate Chapman-Plumb, you're recognized.

MS. CHAPMAN-PLUMB: I rise in support. I would just like to say I think it's an excellent idea that people who have the courage to run and who have the votes, they should be able to serve. I think that's a good idea. I don't think there's any problem.

Just because you got a low number of votes doesn't mean that you're the dregs. It just means you didn't happen to get the right number of votes that time. I know plenty of people who are intelligent people who run and may not run first.

By way of friendly amendment, I would like to -- and I've already gotten concurrence with the kind gentleman, I would like to remove the word, and after the word "district," put a comma after "district." Put a comma after "commission." Remove that and, and put a period after "serve." And remove "at this time." Style committee. Prior to the style committee.

MR. HANNAH: Thank you very much. It will be admitted into the amendment without objection from the second. Kind delegate from Park Hill is recognized.

MR. DONN BAKER: Delegate Donn Baker, Park Hill. I apologize for being late. For Delegate Scott, I had to go into the hog trough this morning and practice law.

I stand in opposition to the proposed amendment, and I think Jigg's idea of looking at the candidate right behind someone is something that we all could do, and I think the Council can do that. And if there is a good candidate who got a great deal of votes, there's nothing -- if we leave it the way it is, there's nothing to keep the number two person from being on the Council.

Surely our Council people will want to get someone from that district that will be representative and that the people would vote for, but by the same token, they ought to have the ability to make sure that someone who just happened to be in the race and is really not qualified could be in there. And so I stand in opposition.

MR. HANNAH: Thank you, Mr. Baker. Delegate Starr-Scott, you are recognized.

MS. STARR-SCOTT: I rise for this amendment. I believe that we're about the people's government. And any time we have the opportunity to, I think we should leave the people's voice in the matter. We have during my tenure appointed at least two or three Council members in vacancies, and I have thought each time it would have been so much better had the constituents of that district had the opportunity to elect their own.

MR. CLARKE: Call the question.

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

THE DELEGATES: Second.

MR. HANNAH: And there's a second, and we will vote to -- hearing no opposition --

MR. PHILLIPS: Mr. Chair.

MR. HANNAH: Mr. Phillips.

MR. PHILLIPS: I object.

MR. HANNAH: Very well. So the vote for the question will be taken. Obviously, we voted in the affirmative, then the question will be called if the nays have it, then the debate will continue. So vote to stop debate.

All of those in favor of the question being called, please signify by saying "aye".

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: The Chair unable to determine the -- Mr. Baker, I would point out to you, sir, that the acoustics at the front of this room are somewhat different than they are at your seat, sir, and you are -- feel free to come up here and sit next to me the next time a voice vote is taken.

The Secretary is so directed take a standing vote of the delegates, and all of those in favor of the motion to end debate will please stand.

MR. UNDERWOOD: The vote is twenty-eight.

MR. HANNAH: The vote is twenty-eight to stop debate. And those will be seated and those against, please stand.

MR. UNDERWOOD: Twenty-five.

MR. PHILLIPS: Point of information. Two-thirds vote necessary to stop debate.

MR. HANNAH: Two-thirds vote to stop debate was not reached. Debate is still in order, and the Chair would entertain debate. Mr. Littlejohn, you are recognized.

MR. LITTLEJOHN: Mr. Chairman, Candidate --  
Delegate Littlejohn rises in support of the amendment, and I would  
--

MR. HANNAH: We were wondering what kind of a  
candidate you might be, Mr. Littlejohn, because as already pointed  
out in this convention, some of you candidates may be, by the phrase  
that was uttered by our gentleman --

MR. LITTLEJOHN: I thought I might be eligible  
for Jigg's seat, but --

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

MR. LITTLEJOHN: I would like to offer a  
friendly amendment by taking the stricken language and put it back  
in there. And at the end of where the flicker is there, is "add in  
the event no such candidate exists, then the Council shall fill."

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

MR. PHILLIPS: I accept that.

MR. HANNAH: And it's accepted, and if there's  
no objection from the second, the language will be added. Floor is  
still open for debate.

MR. HOSKIN, JR.: Call the question.

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

THE DELEGATES: Second.

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

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

I believe the debate has come to a conclusion, the Chair  
declares. Therefore, the question is before us, ladies and  
gentlemen, on new section, Section 13.

All right, ladies and gentlemen, the Chair always wishing  
to be clear that we know exactly where we are. What we're looking  
at is in fact the Phillips' amendment to Section 13, which you see  
is underlined.

And the language reads: "Seats shall be filled by the  
candidate having the next highest number of votes in that district,  
whose eligibility is confirmed by the election commission, who is  
available and willing to serve. In the event no such candidate  
exists --" then the remainder of the language as it appears from the  
original motion.

All of those in favor of the motion before us, please  
signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And the Chair is unable to declare  
the vote. And the Secretary is instructed to take a standing count.  
All of those in favor of the motion before us, please stand.

MR. UNDERWOOD: The count is forty-one.

MR. HANNAH: Forty-one for, be seated. And all

of those against, please rise.

MR. UNDERWOOD: Eleven.

MR. HANNAH: Forty-one to eleven. The motion passes. The language is included. And the order of the day is back to Section No. 13. The floor is open for debate. Mr. Keen, you are recognized.

MR. KEEN, JR.: I would call the question.

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

DELEGATE: Second.

MR. HANNAH: And hearing no objection, the work that is before us is a new section, Section No. 13. We are in Article V. "In the case of removal, death, resignation or disability of any of its members, the seat shall be filled by the candidate having the next highest number of votes in that district whose eligibility is confirmed by the election commission, who is available and willing to serve.

In the event no such candidate exists, then the Council shall fill the vacated seat in the following manner: If a majority of the office's four-year term remains to be served, the Council shall authorize a special election in the district of the vacated seat to be conducted within ninety days. If a minority of the office's four-year term remains to be served, the Council shall elect a replacement who would otherwise be qualified to serve for the district of the vacated seat."

All of those in favor of the motion before you, please signify by saying "aye".

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And it is approved and added in seriatim. What say you, Mr. Keen?

MR. KEEN, JR.: Mr. Chairman. I am proud to report that that concludes the recommendations of the Commission with respect to Article V. If there are others, this is the time for those to be raised.

MR. HEMBREE: On order, Mr. Chairman, there is a tabled article -- what number, Jack?

MR. JACK BAKER: Section 10.

MR. HEMBREE: Section 10 that has some language to clear up.

MR. KEEN, JR.: Thank you for correcting me on that.

MR. HEMBREE: I would move to bring that off the table at this time.

MR. HANNAH: Motion to bring the previous motion with regard to Section 10 off the table. 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." And the item comes off the table.

MR. JACK BAKER: Mr. Chairman.

MR. HANNAH: The good delegate from Chewey is recognized.

MR. BAKER: Delegate Jack Baker. I would like to make a motion that starting the, I believe, fifth line up.

MR. HANNAH: Fifth line up from the bottom or fifth line down? Where are you going, Jack?

MR. JACK BAKER: Fifth line down. That we begin -- where it says -- the one, two -- excuse me, the fourth line up from the bottom. Where we begin, "the Council shall," beginning there, and delete the rest of the section.

This gets rid of archaic and conflicting information and it takes it to what is actually being -- the Council does now in regard to the enactment of the abilities.

MR. HANNAH: Motion to amend. Is there a second?

MS. MEREDITH: Second.

MR. HANNAH: There's a second. Floor is open for debate. The Chair will entertain delegates who wish to speak against the amendment.

Hearing none, Chair will entertain delegates who would speak in favor. Mr. Cornsilk.

MR. CORNSILK: Point of information.

MR. HANNAH: Yes, sir.

MR. CORNSILK: Is there a motion to strike that language?

MR. HANNAH: This is a motion to strike that language. Hearing no debate, we will move then for the vote. And if in fact the motion passes this language will be stricken.

"Unless the Council shall by its adjournment prevent its return, in which case it shall become a law, without the approval of the Principal Chief, no enactment shall become law after the final adjournment of the Council, unless approved by the Principal Chief within fifteen days after such adjournment."

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

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." And the motions passes. The language is stricken, and the kind lady from the west is recognized.

MS. MASTERS: Yes. Delegate Masters. I really need some clarification. When we were on this earlier, I thought I made a motion to return the language, or else I was standing here getting ready to do it, and if there is no motion on the table, I would like to make an amendment.

MR. HANNAH: There is no motion on the table, and the Chair would accept your proposed amendment.

MS. MASTERS: I move that the language that was

stricken from Section 10 that is there at the bottom of that page be reinstated in Section 10. And the rationale for that is, that this is the section which actually looks at the duties, and I believe that this is such an important duty that even though it exists in the oath in another place, I think it does belong within the Constitution, and I think it belongs within this section. I don't think it harms any understanding to have a repetition here.

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

DELEGATE: I second.

MR. HANNAH: There is a second. The floor is open for debate, and who'll speak against this motion -- Mary Ellen -- anyone speak against the amendment? Mr. Rutledge, you are recognized.

MR. RUTLEDGE: I would speak against this motion. I, in general, don't like anything that tries to bind our people who are trying to serve us under the Constitution of the Cherokee Nation, also the Constitution of the United States.

I would really, deeply believe that you can't do both. That there are elements under U.S. law, we are not party to the U.S. Constitution; we are not bound by the U.S. parts of the Constitution. We shouldn't voluntarily assume those duties that we do not have to. I would really be opposed to including this language.

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

MR. CORNSILK: Mr. Chairman, I rise in favor of this motion with the amendment that Mr. Rutledge has trouble with, that we would strike those words, as a friendly amendment.

MS. MASTERS: Thank you. Yes. I will accept that. In fact, I meant to start it there. Thank you for helping me out.

MR. HANNAH: Without objection by the second, the friendly amendment is accepted.

MR. CORNSILK: I'm the second.

MR. HANNAH: Thank you for remembering.

MR. CORNSILK: And Mr. Chairman, I would also like to add to my comment that I think in the last portion of this statement, where "to perform the duties of their perspective offices of fidelity" is probably the most important portion of this. I think that's really critical that we have that kind of responsibility by our elected officials.

MR. HANNAH: Thank you, Mr. Cornsilk. Delegate Chapman-Plumb is recognized.

MS. CHAPMAN-PLUMB: I would just like to remind everyone that as part of our oath that we took here, we swore to uphold the Constitution of the United States of America, so I would have to rise in opposition to that as it reads now.

MR. KEEN, JR.: Mr. Chairman.

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

MR. KEEN, JR.: Delegate Ralph Keen, Jr., and I

rise in opposition to this amendment. Prior to this change in language, I was not opposed just to having the repetitious language in the oath, even though I don't know if it would serve any purpose, other than to take up paper.

But now that they've struck out that language, I do feel that -- I begin to see a trend here, and I certainly concur with the comments of the last delegate, that we are bound under this premise clause to call that Constitution, and there's no harm to swearing to abide by it.

MR. HANNAH: Very well, thank you, sir. Kind delegate from Oklahoma City is recognized, ma'am.

MS. MEREDITH: I would point out that somebody pointed out earlier that not all citizens of the Cherokee Nation are citizens of the United States. But I would also add that I think it is important in the body to say what it is we want to say, rather than just leaving it to the oath. And I think at this point, saving space is not important.

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

MR. CORNSILK: Mr. Chairman, having spoken already, I defer to Mr. Smith.

MR. SMITH: I think we keep forgetting that Section 10 is our Constitution now, unless there's some overwhelming policy to change our Constitution, it should remain. And so if it takes an amendment to put it back in our Constitution, I would concur.

As a historical footnote, the language about upholding the Constitution of the United States, we have bound ourselves to that in twenty-two treaties, the last one being in 1866, in which the federal government reaffirmed its prior obligation, and we affirmed our allegiance to the United States.

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

MR. CORNSILK: Mr. Chairman, I know of three families of Jehovah's Witnesses, who probably would have trouble with this. They are citizens of the Cherokee Nation. I think we are binding ourselves to a Constitution by many other means that are unnecessary in this.

I think whenever a person serves in an office of the Cherokee Nation, they take an oath to uphold the Constitution of the Cherokee Nation. There is no need to bind yourself to any other foreign or whatever government you might call the United States.

MR. HANNAH: Chair would entertain debate.

DELEGATE: Call the question.

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

DELEGATE: Second.

MR. HANNAH: There's a second. And hearing no opposition, what is before us at this time, is the underlying language.

"That members of the Council and all executive officers

shall be bound by oath providing in Article 12 to support the Constitution of the Cherokee Nation, do everything within the individual's power to promote the culture, heritage and traditions of the Cherokee Nation and to perform the duties of their respective offices with fidelity."

MR. KEEN, JR.: That is the amendment, as I understand it.

MR. HANNAH: Very well, thank you, sir. All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Those opposed said "no."

THE DELEGATES: No.

MR. HANNAH: And the ayes have it, and the language stands.

MR. LITTLEJOHN: I'm asking for a roll call vote.

MR. HANNAH: Did you challenge for a standing vote?

MR. LITTLEJOHN: I'm asking for a roll call vote. I'd like to know how many people, and I would like to have it recorded of those that are opposed to having the Constitution of the United States as part of the oath.

MR. SMITH: I object to that. That's for harassment purposes.

MR. HANNAH: One moment. Gentlemen, gentlemen, gentlemen, gentlemen. Just a moment. Mr. Littlejohn, our passions, please.

The kind man has asked for a roll call vote, and it will be granted. You gentlemen will take your chairs.

MS. MASTERS: Challenge the Chair. He asked for a roll call vote for a point of gaining information about the delegates in this body to be used against the delegates in this body, and he made that statement.

MR. HANNAH: Just one moment. Perhaps, Mr. Littlejohn, you would like to clarify your point.

MR. LITTLEJOHN: It is my belief that those people who are voting did not know the purpose of the vote or the intent of their vote, and I would like for that to be explained, and I would like to have a roll call to see what -- who -- how the vote was.

MR. HANNAH: So, sir, are you challenging the vote from the standpoint that we didn't know what we were voting on?

MR. LITTLEJOHN: Yes, that is the basis on which I am challenging the vote. I do not certainly intend to use anything against any member of this body.

MR. HANNAH: Thank you, Mr. Littlejohn, I did not think that that was your intent, and I did not wish for that to somehow permeate throughout the room today.

MR. CORNSILK: Mr. Chairman.

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

MR. CORNSILK: I am deeply offended by what he just said. Not only has he implied that I am not loyal to the United States and the Constitution thereof, but he has also implied that I am ignorant and don't know how to vote.

MR. HANNAH: Good lady from California would be recognized.

MR. JOHN KEEN: Point of privilege.

MR. HANNAH: Point of privilege will be --

MR. JOHN KEEN: Five-minute recess so I may caucus.

MR. HANNAH: We have a vote here, Mr. Keen.

MR. JOHN KEEN: I'm sorry, I withdraw.

MS. MASTERS: I would like the body to determine if it was actually the fact that this body did not know what they were doing when they voted, and I would like a vote on that.

MR. HANNAH: One moment, the Chair will confer with the parliamentarian.

MR. HEMBREE: On order.

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

MR. HEMBREE: I order that just about impossible to do.

MR. HANNAH: Thank you, Mr. Hembree, you are recognized. And do you have any further comment, sir?

MR. HEMBREE: Just that there is a request for a vote on the floor and that we probably should take it.

MS. MEREDITH: I also think that if we take the vote, it will point out who is for it and who isn't.

MR. JOHN KEEN: Mr. Chairman, point of order.

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

MR. JOHN KEEN: They call those a brain-something-or-another, what I just had.

MR. HANNAH: Yes, they do. But you're not going to say that here. But the Chair understands.

MR. JOHN KEEN: I would ask the Chair to call the member to order in regard to his comments and admonish the body to refrain from comments of a personal nature.

MR. HANNAH: Mr. Keen, thank you very much for your counsel because the Chair is willing to accept counsel and has been all along. Ladies and gentlemen, the Chair will remind all the delegates that you have done an outstanding job. And you are doing an outstanding job, and we have done so here under the watchful eye of many individuals.

And we've had good and strong and productive debate. And we're not going to let the lateness of the hour nor the fatigue of the mental strain nor anything else rise our passions to a point to where, either "A," that we do in fact bring a statement that could be misinterpreted or, "B," that we would be so sensitive to take them as being misinterpreted. Okay. We are all going to be here together. The man has asked for a roll call vote.

Ms. Masters to refer back to you, the Chair is -- you're out of order, and I will not yield to your request. Mr. Poteete, you will need a good reason to be at the microphone at this time.

MR. POTEETE: I think that I need information. Maybe I am so fatigued I'm not quite right sure where we are. Are we voting to amend the existing Constitution, or are we voting to adopt -- what are we doing here? I like the original language and the original Constitution that spoke to the United States Constitution and maybe --

MR. HANNAH: Don't start a debate here for us. Mr. Littlejohn, would you indulge the Chair with your motion for just a moment? I think we need a little bit of clarifying language here.

MR. LITTLEJOHN: My motion was to ask for a roll call vote.

MR. HANNAH: That's very true. Would you indulge the Chair for just a moment. The Chair's not denying -- cannot deny it.

MR. LITTLEJOHN: I will indulge the Chair.

MR. HANNAH: You are a good man. You are a gentle man, and I am very appreciative to that. The Chair is appreciative for all the delegates and their decorum here. We're back in the room together now, folks.

Mr. Keen, you are recognized, sir.

MR. KEEN, JR.: Thank you, Mr. Chairman. We are examining the language in Section 10 of the revised Constitution as submitted by the Commission. The language that we are looking at is the recommendation -- or it started out as the recommendation of the Commission as an amendment to the 1975 Constitution.

In our recommendation, we have removed this language from the oath and struck it out as being repetitious. Okay. Now we are looking at the amendment brought about by Ms. Masters to put that language back in to this language, but she has taken out the phrase referring to the Constitution of the United States of America.

So the question before this body is whether or not this amendment should be included in this language. And the language we're voting on is that which is underlined. And I might just point out to all the delegates that our scribe is doing a wonderful job, and she sees to it and I see to it that the language that we are dealing with, if it's by way of amendment will always be underlined.

So any time you see language underlined, that's the question that's on the floor at that time. If you see nothing underlined, then we're voting on that entire piece before you. So now, have I clarified it for you?

MR. POTEETE: Yes, I can support this and then vote against the whole Section 10 and opt to keep what we've got now, the 1975 Constitution.

MR. KEEN, JR.: You can do that. In fact, if this gets approved, you can vote to actually either amend or substitute all of this language with the original language.

MR. POTEETE: Thank you.

MR. HANNAH: Very well. Mr. Littlejohn.

MR. DONN BAKER: Point of clarification.

MR. HANNAH: Point of clarification for my friend from Park Hill.

MR. DONN BAKER: And I may have missed it since it was discussed earlier, but is there any particular reason why it refers to members of the Council and the executive officers have to take an oath? Do we do the judges at a later place in the Constitution, or did I miss that?

MR. KEEN, JR.: That's a fair question. And it's been kind of hit-and-miss in the Constitution. It appears in some sections, it does not appear in others, but we do have an article that addresses the oath, and that article, as soon as I find it, does encompass all elected and appointed officials.

One of the reasons for this recommendation was to try to clean that up a little bit. Just have the oath in one location of the Constitution and have that oath applicable to all elected and appointed officials.

MR. DONN BAKER: So the Commission didn't want this in here because you've got it for everybody at some later place, and if we go with this, it's just duplicitous.

MR. KEEN, JR.: Exactly.

MR. DONN BAKER: I'm clear now.

MR. LITTLEJOHN: Roll call. I request roll call.

MR. HANNAH: Mr. Littlejohn. Mr. Secretary, would you conduct a roll call vote, please?

MR. RIDER: Point of clarification.

MR. HANNAH: Good delegate, you're recognized.

MR. RIDER: Yes, I know what it stands for.

MR. HANNAH: Okay, thank you very much.

MR. DOWNING: Point of information.

MR. HANNAH: Point of information, you're recognized, sir.

MR. DOWNING: Could you request from the parliamentarian the reasons for having a roll call vote?

MR. HANNAH: Yes, I certainly will do so.

My kind friend once again, your question, I want to make sure I answer it correctly.

MR. DOWNING: The purpose --

MR. HANNAH: The purpose of a roll call vote?

MR. DOWNING: For a roll call vote.

MR. HANNAH: Is to determine those in favor and those against.

MR. DOWNING: May I make a comment?

MR. HANNAH: Sir.

MR. DOWNING: It would seem to me that it would follow from that that if you have already had a reasonable count, that it should only be used when you're unsure of the outcome.

MR. HANNAH: It is not at the direction of the Chair, though. A roll call vote is a vote that can be requested by a delegate. Kind delegate, will you take your seat, sir? And I hope I've answered your question. If it is a privilege that remains with all delegates that are here to ask for a roll call vote.

MR. ROBINSON: Point of information.

MR. HANNAH: The good doctor, this vote may last right on through the four-and-a-half months that we have voted on earlier.

MR. ROBINSON: I'm sorry, but I just want to make sure that everyone, including myself, knows what we're voting on. If you vote yes, that means that this language will be put back in; if you vote no, it means it will be stricken from the section. So if we vote yes, that means we've got two references to this.

MR. HANNAH: That would be correct.

MR. ROBINSON: This and then Article XII.

MR. HANNAH: That would be correct.

Now, the Chair asks for the attention of all delegates. We have spent a lot of time here talking about just how to take this vote. Are we all clear on what it is that we're about to vote because we've already voted this once, and it would be the intention of the Chair for us not to conduct a third vote after this. Okay?

Secretary, you can call roll.

MR. UNDERWOOD: Adair.

MS. ADAIR: No..

MR. UNDERWOOD: Alberty. Bill Baker.

MR. BILL BAKER: No.

MR. UNDERWOOD: Donn Baker.

MR. DONN BAKER: No.

MR. UNDERWOOD: Jack Baker.

MR. JACK BAKER: Yes.

MR. UNDERWOOD: Berry.

MS. BERRY: Yes.

MR. UNDERWOOD: Birmingham. Burnett.

MS. BURNETT: Yes.

MR. UNDERWOOD: Center.

MR. CENTER: No.

MR. UNDERWOOD: Chilson.

MS. CHILSON: Yes.

MR. UNDERWOOD: Clarke.

MR. CLARKE: No.

MR. UNDERWOOD: Colson.

MS. COLSON: No.

MR. UNDERWOOD: Coon. 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. Bill Davis.  
MR. DAVIS: Yes.  
MR. UNDERWOOD: Earl Davis. Carl Downing.  
MR. CARL DOWNING: Yes.  
MR. UNDERWOOD: Dowty.  
MR. DOWTY: No.  
MR. UNDERWOOD: Foster.  
MS. FOSTER: Yes.  
MR. UNDERWOOD: Gourd.  
MR. GOURD: No.  
MR. UNDERWOOD: Gunter.  
MR. GUNTER: No.  
MR. UNDERWOOD: Hagerstrand.  
MS. HAGERSTRAND: Yes.  
MR. UNDERWOOD: Hammons.  
MS. HAMMONS: Yes.  
MR. UNDERWOOD: Hannah.  
MR. HANNAH: Abstain.  
MR. UNDERWOOD: Herod.  
MR. HEROD: Yes.  
MR. UNDERWOOD: Hathaway. Havens.  
MR. HANNAH: Whoa, whoa. We'll take just one

moment. Where are we here, folks?

MR. UNDERWOOD: Herod.  
MR. HANNAH: Hathaway is not here.

(complications with the computerized vote)

MR. JOHN KEEN: I move that we go by the  
Secretary's handwritten vote.

MR. HANNAH: The Chair will take the  
recommendation from the kind gentleman from Iowa, and anticipating,  
as I did in my earlier statement, that there would in fact be a  
third vote taking place here.

Mr. Secretary, do you have ample notes on the prior votes  
that were taken on your ballot?

MR. UNDERWOOD: I think so.  
MR. HANNAH: In that case, then, continue, sir.

And the young lady obviously is discontinued from the count.

MR. UNDERWOOD: Havens.  
MS. HAVENS: Yes.  
MR. UNDERWOOD: Hembree.  
MR. HEMBREE: No.  
MR. UNDERWOOD: Hook.  
MR. HOOK: Yes.  
MR. UNDERWOOD: C. Hoskin, Jr.  
MR. HOSKIN, JR.: No.  
MR. UNDERWOOD: C. Hoskin, Sr.  
MR. HOSKIN, SR.: No.  
MR. UNDERWOOD: Johnson. Jordan.  
MS. JORDAN: No.

MR. UNDERWOOD: J. Keen.  
MR. JOHN KEEN: No.  
MR. UNDERWOOD: Ralph Keen, Jr.  
MR. KEEN, JR.: No.  
MR. UNDERWOOD: Ralph Keen, Sr.  
MR. KEEN, SR.: No.  
MR. UNDERWOOD: Lay.  
MR. LAY: No.  
MR. UNDERWOOD: Littlejohn.  
MR. LITTLEJOHN: No.  
MR. UNDERWOOD: Linnenkohl.  
MS. LINNENKOHL: Yes.  
MR. UNDERWOOD: Masters.  
MS. MASTERS: Yes.  
MR. UNDERWOOD: McDaniel.  
MR. McDANIEL: Yes.  
MR. UNDERWOOD: McIntosh.  
MS. McINTOSH: No.  
MR. UNDERWOOD: McCreary.  
MR. McCREARY: No.  
MR. UNDERWOOD: MacLemore. Melton. Meredith.  
MS. MEREDITH: Yes.  
MR. UNDERWOOD: Miller.  
MS. MILLER: Yes.  
MR. UNDERWOOD: Moore.  
MR. MOORE: Yes.  
MR. UNDERWOOD: Mullon. Peacock. Phillips.  
MR. PHILLIPS: No.  
MR. UNDERWOOD: Pitts.  
MS. PITTS: Yes.  
MR. UNDERWOOD: Plumb.  
MS. CHAPMAN-PLUMB: No.  
MR. UNDERWOOD: Poteete.  
MR POTEETE: No.  
MR. UNDERWOOD: Raper. Rider.  
MR. RIDER: Yes.  
MR. UNDERWOOD: Robinson.  
MR. ROBINSON: No.  
MR. UNDERWOOD: Rutledge.  
MR. RUTLEDGE: Yes.  
MR. UNDERWOOD: Sanders. Barbara Scott.  
MS. STARR-SCOTT: No.  
MR. UNDERWOOD: D. Scott.  
MS. SCOTT: Yes.  
MR. UNDERWOOD: Owen Scott. M. Silversmith.  
MS. SILVERSMITH: Yes.  
MR. UNDERWOOD: R. Silversmith.  
MR. SILVERSMITH: Yes.  
MR. UNDERWOOD: Smith.  
MR. SMITH: Yes.

MR. UNDERWOOD: Center.  
MR. CENTER: Yes.  
MR. UNDERWOOD: Starr. Stopp.  
MR. STOPP: No.  
MR. UNDERWOOD: Stroud.  
MS. STROUD: Yes.  
MR. UNDERWOOD: Twining.  
MS. TWINING: No.  
MR. UNDERWOOD: Underwood, yes. Viles.

Wheeler. Whitfield.

MR. WHITFIELD: No.  
MR. UNDERWOOD: Wilson.  
MR. WILSON: Yes.  
MR. HANNAH: Count of the Secretary.  
MR. UNDERWOOD: Thirty-two yes, twenty-nine no.  
MR. HANNAH: Motion passes, the language is

included. The debate is open on the floor for the remainder of the session. You're recognized, sir.

MR. McCREARY: Mr. Chairman, Kenneth McCreary of Black Gum. Due to the hour, and we're going through this rather slowly and everybody is getting a little bit tired, I make a motion to recess until tomorrow morning at eight o'clock, and then I would like to be wished to be on the agenda.

MR. HANNAH: Beg your pardon -- sir, please step back to the microphone. I want to make sure I understood exactly what you're asking for. You're asking for us to recess until tomorrow morning at eight o'clock?

MR. McCREARY: That's correct.

MR. HANNAH: And to what?

MR. McCREARY: I also asked the Chair to be placed on the agenda in the morning.

MR. HANNAH: For the Chair to be placed on the agenda?

MR. McCREARY: No. No, sir.

MR. HANNAH: The Chair does not wish to be placed on the agenda.

MR. McCREARY: The Chair is on the agenda, okay. I wish to be placed on the agenda in the morning at the conclusion of Section 5.

MR. HANNAH: I cannot do that, sir. You would be out of order with your request to be placed on the agenda since the agenda has been set by this convention, but you would be able to make a motion to recess until eight o'clock tomorrow morning. Would you care to do that?

MR. McCREARY: Yes.

MR. HANNAH: The motion is before you; is there a second?

DELEGATE: Second.

MR. HANNAH: And there is, and the floor is open for debate.

MR. JOHN KEEN: Point of order.

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

MR. JOHN KEEN: He can make a motion to be placed on the agenda.

MR. HANNAH: I beg your pardon, sir? Mr. Keen -- hold it, wait a minute here. There you go. I'm addressing Mr. Keen, and what was your question, sir?

MR. JOHN KEEN: Just a point of order to be fair to the delegate. He can make a motion to be placed on the agenda if two-thirds of the body approve it.

MR. HANNAH: And the Chair would stand corrected, but that is not the usual protocol, sir.

MR. McCREARY: I withdraw that part of it.

MR. HANNAH: Excellent. And now that we've had debate about what it is that we cannot and can do, the debate is open at this time, and Mr. Hembree is recognized, sir, with regard to the motion that is before us to adjourn until eight a.m. tomorrow morning.

MR. HEMBREE: Delegate Hembree. Would the kind gentlemen accept as a friendly amendment to his motion at the conclusion of our business with Article V because I sure would like to have some sense of accomplishment when we leave here today.

MR. KEEN, JR.: Mr. Chairman.

MR. HEMBREE: We're very close to the completion of Article V.

MR. McCREARY: We'll accept that.

MR. HANNAH: Just a moment. The Chair would like to know just exactly what happened here. Just because I think you all want me to somehow keep us together. And Mr. Hembree, what is it that you and the kind gentleman at the rear of the room have negotiated?

MR. HEMBREE: Mr. Chairman, it has been offered as a friendly amendment that his motion be amended to move for recess upon such time that we conclude business on Article V that is before us.

MR. HANNAH: Very well, and thank you very much for clarifying that. You --

MR. McCREARY: Wait a minute. I'm getting confused myself now. As I understand it, you're saying that we conclude Section 10 of Article V?

MR. HEMBREE: No, Article V. This is the last section on it that we have to consider on Article V.

MR. McCREARY: I have matters that will deal with Article V, but I would rather address that first thing tomorrow morning.

MR. HANNAH: I'm taking it, the good delegate will not accept your friendly amendment, and the motion is on the floor to adjourn until eight a.m. tomorrow morning; is that correct, sir?

MR. McCREARY: That is correct.

MR. HANNAH: That is correct. Take your seat. And the floor is open for debate with the regard to the motion that is before us at this time. Mr. Keen, you are recognized.

MR. KEEN, JR.: Thank you, Mr. Chairman, Ralph Keen, Jr. I'm not in opposition to recessing, but I would just like to point out as a point of information that we've already made dinner arrangements for the delegates at five o'clock, so if that would help timing issues.

MR. HANNAH: Thank you, Mr. Keen. The Chair has always measured the success of this convention by its ability to make it to the next meal.

MR. CORNSILK: Mr. Chairman.

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

MR. CORNSILK: Delegate Cornsilk, I rise in opposition to this. We have an hour to complete Article V before we go munch down, and so I think we should stay.

MR. HOOK: Mr. Chair.

MR. HANNAH: Dr. Hook, you're recognized. How rise you on this issue?

MR. HOOK: Well, I stand in favor of it. I have proposed a friendly amendment that it be restated that we conclude the business of the day after finishing Section 10, that we conclude Section 10 and then adjourn for the day.

MR. HANNAH: And what say you, sir?

MR. McCREARY: I will accept that.

MR. HANNAH: Let's make sure that we understand what it is that we are going to be debating and voting on. There is a motion to recess until eight a.m. tomorrow morning; is that correct, kind sir?

MR. McCREARY: That is correct.

MR. HANNAH: But that we would in fact conclude the business of the day with regards to Section 10 of Article V. Did I get it, partner?

MR. McCREARY: Yes.

MR. HANNAH: And the floor is open for debate. And Mr. Hembree, we see you once again at the microphone.

MR. HEMBREE: Thank you, Mr. Chairman, Delegate Hembree. I rise in opposition to this motion. Ladies and gentlemen, it has been a long day. But we've got an hour left of sunshine left to make hay, all right. We have spent literally all day on Article V. Let's finish Article V. So therefore, when we rest tonight, we know we got us a new article to come to.

Now, let's do this and get Article V done. Now, they have a very good point, and I'm willing to listen to him, but let's get it done.

MR. HANNAH: Thank you, Mr. Hembree. You're recognized, kind sir.

MR. DOWNING: I rise in opposition of the motion. I feel I have to defend my statement of an iron man. I may

--

MR. HANNAH: The Chair will entertain no more comment from you.

MR. DOWNING: I think we have an hour; let's use it.

MR. HANNAH: Very well.

MS. MEREDITH: I move that we call the question.

DELEGATE: Second.

MR. HANNAH: And it's been seconded, and hearing no opposition, question is before us at this time. Motion has been made that we would recess until eight a.m. tomorrow morning, but not -- after concluding the business of the day, which would include Section 10 of Article V.

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 unable to make a decision.

MR. HEMBREE: Standing vote.

MR. HANNAH: Standing vote is called for. All of those in favor of the motion, please stand.

MR. HOOK: Point of clarification.

MR. HANNAH: One at a time, folks.

MR. HOOK: Restate the motion.

MR. HANNAH: Dr. Hook, were you --

MR. HOOK: Restate the motion.

MR. HANNAH: Restate the motion. The motion before us is if you vote in favor of this, we will recess after -- let me put this correct, we'll still be about the business of the day with regard to Section 10 of Article V. But once that is completed, once that is completed, we will recess until eight a.m. tomorrow morning. Okay. Now, the author of that motion, is that correct, sir?

MR. McCREARY: That's correct.

MR. HANNAH: And the Chair looks about the room, is everybody with me on this?

Okay. Mr. Secretary, I apologize for being away from the podium, and you may start the count once again. All of those in favor of the motion, please stand.

MR. UNDERWOOD: Twenty-seven.

MR. HANNAH: Twenty-seven in favor. Being seated and all of those opposed, please stand.

MR. UNDERWOOD: Thirty-one.

MR. HANNAH: Thirty-one against, twenty-seven for, motion does not pass and we are about the business of the day, which would take us to the consideration of Section 10.

DELEGATE: Previous question.

MR. HANNAH: Question is being called. Is there a second?

MR. HEMBREE: Second.

MR. HANNAH: And there's a second.

MR. CORNSILK: Object. I had a thinking on the ruling.

MR. HANNAH: The previous question is Section 10. Let's all stay together here now. It is Section 10, and the question was called, and there was an objection, and debate is still open. Mr. Cornsilk, you are recognized.

MR. CORNSILK: Are we debating previous question or are we debating that?

MR. HEMBREE: Debating previous question.

MR. CORNSILK: Okay. I really -- I want to say something about that, and that's my only debate.

MR. HANNAH: This is the previous question.

MR. CORNSILK: You all are confusing me. We're debating whether we want the previous question, right?

MR. HANNAH: No, we are debating the question. We are back to the business of the day, folks.

MR. HEMBREE: On order.

MR. HANNAH: On order. I thank you, Mr. Hembree. Now we're together.

MR. HEMBREE: Mr. Chairman, the order of the business of the day right now is Article V, Section 10. A motion for previous question was made and seconded. Two-thirds vote needs to be taken to see if previous question is granted, which would end debate and go to a direct vote on Section 10.

So, we have had previous question; it had been seconded; a vote should take place. If it receives two-thirds, then debate ends.

MR. HANNAH: By way of clarification, then, the actual motion is for end of debate, requiring two-thirds vote.

MR. HEMBREE: Correct.

MR. HANNAH: Okay. Thank you, Mr. Delegate from greater Greasy. The Chair is appreciative for your clarification and he means that with all sincerity, even though he has jumped you up and down out of the Chair a great deal today, and will continue to do so, young man.

Question before us is to end debate on Section 10. All of those in -- Mr. Smith, do you have a point of information?

MR. SMITH: If it's just David, let him talk, and let's just limit the debate and get on with it without going to the stand up, sit down votes.

MR. HANNAH: That would seem overly logical, Mr. Smith.

MR. HEMBREE: I will yield to the good sir.

MR. HANNAH: And so with the motion being drawn to end debate, and with the Chair looking about the room and speculating that Mr. Cornsilk will be the only man to raise debate.

MR. CORNSILK: Delegate Cornsilk.

MR. HANNAH: He is recognized.

MR. CORNSILK: Formerly from Titanic, lived in

Tahlequah for a long time, but now in Fort Gibson. My comment on this is that I believe that we need to keep this in place; we need to put this back into the Constitution; we need to ensure that our elected officials are -- they have fidelity and are carrying out their duties.

And I don't believe for a second that segregating my loyalty to the Cherokee Nation from my loyalty to the United States is anywhere near out of order. They are two separate sovereigns. I am loyal to both, and I can find within my heart and my ability to exist in both right here. I don't have a problem with it. And I would recommend that you support this.

MR. HANNAH: Thank you, Mr. Cornsilk.

The Chair hearing no objection, bringing the debate to a close is bringing the question before us. And the question is the entirety, ladies and gentlemen, of Section 10. So therefore, if we in fact vote for this, we will have approved Section 10.

And the language will read: "That every enactment, which shall have been approved by a majority of the members of attendance of the Council shall before it becomes effective be presented to the Principal Chief. If he or she approves, he or she shall sign it. If not, he or she shall return it with his or her objections to the Council, which shall enter the objections in the journal and proceed to reconsider it.

If after such reconsideration, two-thirds of the entire Council shall agree to pass the enactment, it shall become fully effective and operational, notwithstanding the objections of veto of the Principal Chief.

In all such cases, the vote of the Council shall be determined by yeas and nays, and the names of the members voting shall be entered on the Council journal. If any enactment shall not be returned by the Principal Chief within five days, Sunday and holidays excepted, after it shall have been presented to him or her, the same shall be law in like manner, as if he or she had signed it.

Members of the Council and all executive officers shall be bound by oath provided in Article XII to support the Constitution of the Cherokee Nation, do everything within the individual's power to promote the culture, heritage and traditions of the Cherokee Nation and to perform the duties of their respective offices with fidelity."

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

THE DELEGATES: Aye.

MS. MASTERS: Point of order.

MR. HANNAH: Point of order. You are recognized.

MS. MASTERS: By leaving in the phrase "provided in Article XII" to this document, that does still place an order of fidelity to the United States --

MR. KEEN, JR.: I believe that point of order is out of order.

MR. HANNAH: That is out of order. Please take

your seat, delegate.

And the Chair's remembrance of the audible vote is not within his mind. So therefore, the vote will be taken again.

MR. KEEN, JR.: May I make a comment, Mr. Chairman?

MR. HANNAH: We may as well. We seem to have taken a brief moment here, Mr. Keen. You're recognized.

MR. KEEN, JR.: I'm not trying to slow down the process. But minor changes like this is the beauty of the seriatim process, even though we have approved it now, it's a preliminary approval, and we will have a chance after we've slept on this and rested to look at this language again and have another opportunity to perfect it before we finally adopt it.

MR. HANNAH: Thank you, Mr. Keen, for the clarification.

All of those in favor of the motion before us 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 motion carries, and the language is accepted and we have approved Section 10. Don't be overjoyous about it here.

MR. McCREARY: Mr. Chairman.

MR. HANNAH: The good gentleman is recognized.

MR. McCREARY: Ken McCreary, Black Gum. I have a motion to Section 5 -- or correction, Article V, Section, as I number it will be Section 10, to replace the present Section 10, and that section and all the subsequent sections be renumbered.

My proposal is -- and also proposed by Dr. Hook: "The Council shall compel its members to attend all regularly scheduled duly called special or emergency meetings of the Council and to do the business of the Cherokee Nation. Should the members fail to attend three or more consecutive meetings without due cause, the Council, after holding a hearing in either regularly or special meetings, shall cause the member to forfeit their monthly stipend for that period of their absence or be removed in accordance with Article X of this Constitution, and their seat be declared vacant."

MR. HANNAH: Is there a second?

DELEGATE: Second.

MR. HANNAH: There is a second. Kind sir, your rationale.

MR. McCREARY: This article here and the rationale I have behind it, and a number of different people I've talked throughout the areas that I'm familiar with, have proposed this to be changed in the Constitution. And a lot of them thought that this was something that was left out and that we need to put it in there.

And I don't think that they really were wanting to address any political issues or anything like that. I just think it

was leaving something out of the Constitution that would give the Council itself redress in being able to correct whatever matters they have within themselves.

And at this point, I have a loss of memory of what all I had to say on this point.

MR. HANNAH: Very well, Mr. Delegate, and so this is your proposal for addition; is that correct?

MR. McCREARY: Yes.

MR. HANNAH: And we have a second, and the floor is open for debate, and the Chair will entertain delegates.

MR. POTEETE: Mr. Chairman.

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

MR. POTEETE: I'd suggest to you all that the electorate would never have thought of this before the troubles of late. I think it's pretty evident that it is a response to the difficulties that we've had.

What I'd like to suggest to you is that if the electorates who elected the Council member don't approve of what that Council member has done, that we are going to provide elsewhere in this document recall provisions which will allow the electorate in that district that elected that person to go about the business of correcting their legislature, their legislators, their representatives.

I think this is a knee-jerk reaction. I think that it brings up matters for the Council to hash out that they need be bound to constitutionally. If people are unsatisfied, they can go to the recall, then we will provide ample provision for that.

And I urge you to quickly put this down. I urge you to just vote it down. There's not going to be any lay it on the table and all of that business. I think it's just a knee-jerk reaction to the problems we've had. We've had the Constitution twenty-five years and only in the last couple of years have we had this problem.

MR. HANNAH: How do you rise, Mr. Hoskin?

MR. HOSKIN, JR.: Mr. Chairman, Charles Hoskin from Vinita. I rise in support of this motion. I think in opposite of being a knee-jerk reaction, I think it is a well thought out reaction, something that folks have had the chance to think of for not only the last two years, but I think folks, you know, reflecting on the Constitution may have thought of it over the last twenty years.

But the point is that we're here to deliberate. I think it's a good motion, but I think it would be a good opportunity to table this motion until such time that we are of fresh mind because I know that we are about to recess, so I would move to table this motion.

MR. HANNAH: Motion to table; is there a second?

DELEGATE: Second.

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

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And the debate continues. Mr. Hembree, you are recognized.

MR. HEMBREE: Thank you, Mr. Chairman. As I will state again, ladies and gentlemen, constitutions are to be as simple in plain language as possible, okay. This opposed amendment may very well be a good idea. I'm not necessarily opposed to it, but I'm opposed to putting this language in Article V and making a new section out of it.

And let me tell you why. The document that we're working from or ultimately going to amend is the 1975 Constitution. There are two provisions in that Constitution that already exist that would satisfy Mr. McCreary's -- his desire to -- let me point them out to you.

Let me first go to Article V, Section 2 of this Constitution. "It says the Council shall establish its rules for its credentials, decorum and procedures." That gives the Council itself the authority to set its own rules, and this would be more appropriate for the Council to determine what is and what is not appropriate in their body.

Secondly, I would refer the delegates to Article IX, removal from office, Section 2. "All other elective officers shall be subject to removal from office in such manner and for such causes as may be provided by laws passed by the Council."

Ladies and gentlemen, this is a legislative act. This is a law or this is a rule for decorum for the Council. This is not a constitutional amendment. This should be not be part of the Constitution. That's why we tried to create a document that can evolve. That's why we don't put specific plans of statutes into a Constitution. We put directives, and it's up for those directives to be carried out.

Now, Article IX, removal from office, Section 2, specifically gives this power to the Council to pass a law asking for what Mr. McCreary could do. It does not belong in the Constitution. This Constitution needs to be plain, simple spoken words, that everybody can understand and not bogged down, again.

And I'll refrain from using the analogy of canutchee ball, but ladies and gentlemen, let's vote this down. It's already provided for in the Constitution.

MR. HANNAH: The kind lady from Texas is recognized, once she finds the microphone. How do you rise on this issue?

MS. MILLER: I rise definitely in favor of some sort of motion to compel. I think it's very important. Yesterday and then again today, I heard somebody refer to the fact that this has never happened in our long tradition, in our long Cherokee tradition this has never happened before, and chances are it will never happen again and we'll get over it.

But I submit to you that this is not a freak of nature,

that it will happen again, and in fact, it's more likely than ever to happen again. And there's several reasons for that.

First of all, we have had a long, honorable tradition of attending Council meetings. That tradition has now been broken and we have a precedent. And being Cherokee, we are fast learners, and we have learned that if we want to control the majority and we're unable to do so, all we have to do is take our vote and go home. Therefore, we know how to play the game and it will happen again.

Another point is that by my math, two-thirds of seventeen is about 11.3333, and that means that it is easier than ever, or at least as easy to boycott. All we need is 5.6666 Council members, which is not that much different than six Council members. It's easy. We need five or six people to boycott and to clog up our system. It's as easy as it ever was to do so. It will happen again, unless we compel attendance.

Also, I heard yesterday some people worry about letting five people control the government under the simple majority plan. I submit that under this plan, we're still letting five or six people control the government if we don't pass some sort of motion or amendment to compel.

MR. HANNAH: State your name for the record, please.

MS. MILLER: Brandy Miller.

MR. HANNAH: Thank you, ma'am.

Mr. Smith, you are recognized.

MR. SMITH: Of course, this is a knee-jerk reaction to the controversy of the last eight months. We can't deny that. But the thing that is very important to examine as the good delegate from west Greasy said, all of that authority is on the books. The two constitutional amendments will provide.

And what is telling in this situation is the Council has never, never passed any legislation laws to flush out the constitutional amendment. They have never set up a provision for impeachment. They've never set up provisions for discipline of their own Council. They have not adopted the rules.

The authority there is in the Constitution, and this is not a super legislature. Just because we get one chance to come in here and try to cure all the world's ills, that's not our purpose. Our purpose is to lay out policy and tell our elected officials to execute that policy. We have told our elected officials, you have this authority, if it's a sufficient problem, you've got the authority under the Constitution to provide legislation and rules to get your Councilmen there if the policy requires.

This is overkill; this is a knee-jerk; it needs to be laid to rest.

MR. HANNAH: English major from Tahlequah is recognized.

MS. HAMMONS: Thank you. I speak in opposition to this amendment. Strictly from a constructions point of view, I don't think that this is going to pass the muster, ladies and

gentlemen, from any court that looks at it. Let's look at it with clear heads, not with emotions, not in response to what we perceive should be the answer.

Let's look it -- it's constitutional language, which we have done admirably, and I will admit to my surprise, for the last three days. We've concentrated on what should be in the Constitution and what can pass legal muster, and sometimes we fought for hours trying to get it right. Let's look at this language. "The Council shall compel its members to attend all regularly scheduled duly called special emergency meetings of the Council to do the business of the Cherokee Nation."

Ladies and gentlemen, if you pass that the way it is, if somebody is in the hospital with the flu, the Council can compel them to attend. If somebody is attending the funeral of their grandmother, the Council can compel them to attend. And how are they going to compel them? Are they going to send security guards out there with guns? Are we going to arrest them and place them in shackles and force them to be there?

Think with your minds about what you've written and what you are proposing. This language will not work in the Constitution, ladies and gentlemen, and I urge that it not be passed.

MR. HANNAH: Delegate Hammons, state your name.

MS. HAMMONS: Diane Hammons, Tahlequah, Oklahoma. Thank you.

MR. HANNAH: Kind lady from Tahlequah is recognized.

MS. CHAPMAN-PLUMB: Well, I rise in opposition to this for the reasons that have been enumerated before me. But to tell you the truth, I'm not too worried about this having much affect, because I've never known many politicians that would be willing to cut one another's throat.

MR. HANNAH: The Chair is uncertain what is more cutting, the stipends or the wit of the good delegate from Tahlequah.

Thank you, Mr. Hoskin, you are a gentle man. The good doctor is recognized.

MR. ROBINSON: Ricky Robinson, delegate from Tahlequah. It's hard to fall for such intimate lawyers, but then also maybe four lawyers agree on something, maybe what I have to say will have a little bit more weight than some people.

I do think that there is a section in here that will allow Council members to miss meetings due to sickness and, you know, that type of thing under due cause. I am here representing myself, the Cherokee people in total, but I am also here to represent people from my home area, people from Salem, Bell, Honey Hill, Oakridge, south and north Greasy, and Mayes, and a lot of other areas.

And I am in favor of this, because simply I have been told by many of our people up in the hills of Adair County that they want the Council members to attend. And I think that this maybe

will not satisfy what some of them want but will touch on it. And I am just presenting myself in favor for a lot of my family and my wife's family. Thank you.

MR. HANNAH: Mr. Hoskin, how rise you?

MR. HOSKIN, JR.: I rise in support of this motion. There's been a lot of talk about what a Constitution is, what we write a Constitution for. And there's something to be said for keeping it simple; there's something to be said for keeping it, quote, unquote, constitutional or constitutional styled language.

But we should also remember that a constitution reflects what the people want. And that fights over the constitution happen here. We shouldn't dismiss something because we think it's not fitting for a constitution.

I think that if you talk to the commissioners and if you go to the meetings I went to for this Constitution Convention, you'll see that the people wanted some mechanism for Council members to attend these meetings. That ought to count for something in these chambers, and I think that it does with many of us.

With respect to what the gentle lady said about people being sick and being compelled to attend, she raises an important issue. However, I think that the due cause language takes care of that. Although, a friendly amendment might be in order to say that the Council shall compel its members to attend all regularly scheduled duly called special emergency meetings with the Council to do the business of the Cherokee Nation except in the case of good cause. Something like that might correct that if that is her only problem with this amendment.

I think this is necessary, and I think this is a true reflection of what many Cherokee people feel needs to be in the Constitution. I would also remind you that this language is not as harsh as language that was put up yesterday. This leaves it with the Council to decide in a hearing. The hearing obviously must have a quorum of Council members. This lets the people's body decide this, and that's important. And I think that it's a good compromise from the language that we talked about yesterday. I would urge support for this motion. Thank you.

MR. HANNAH: Calvin, you're recognized.

MR. McDANIEL: McDaniel from Muskogee. I'm in opposition of this amendment, or whatever it is, on the grounds of common sense, and the ground that this rule that would apply to, that I know some of them, and I consider them doing the right thing. That's my opinion.

I got one more little something to say. Should the member fail to attend three or four consecutive meetings and so on, does that mean that they could fail to attend four or five or six meetings, or I don't know? It's not clear to me what it really means.

MR. HANNAH: Thank you, Calvin. You raise good issues for us here.

The young lady from Texas is recognized.

MS. SCOTT: Point of information. Can you poll the delegates and tell us how many times this came up in your town hall meetings from the people that you spoke with, that want some accountability from the Council members? I think we need to hear again what the people want to have happen in this Constitution.

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

MS. SCOTT: Could you do that; could you tell us from your constitutional meetings?

MR. HANNAH: I think it's a fair question of information, and we intend to answer it for you, and I ask the man who's the sponsor --

MR. KEEN, JR.: This issue was brought up at a number of public hearings, no doubt. It was very -- at several times very vehemently suggested that some type of attendance requirement be implemented.

We've heard essentially two versions of it. One was a compulsory attendance rule, which is how I would classify this. The other one was a mandatory attendance rule. The difference is "shall compel" up there, but it was a topic of discussion at a number of meetings. So there was a number of people out there that have deep feelings on this.

MR. LAY: Point of clarification.

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

MR. LAY: Mr. Keen, is there a statistical amount -- are you giving me a statistical amount?

MR. KEEN, JR.: No, sir, I'm not.

MR. LAY: That's what I thought.

MR. KEEN, JR.: Absolutely, and I wouldn't dare to do that.

MR. LAY: There was in fact testimony that supported what had happened, was there not?

MR. KEEN, JR.: There was some of it -- I feel like I'm being cross-examined here.

MR. HANNAH: And we're not going to go down that trail. We're not going to go down that trail at all. The floor is still open for debate and you, sir, from West Peavine are recognized.

MR. DOWTY: Thank you, Mr. Chairman. Delegate Dowty. I would move a friendly amendment to correct the language. In the fifth line down, after the word "either," "a," add the word "a regularly scheduled or special meeting." I would ask the author to accept through the Chair that amendment.

MR. McCREARY: Accepted.

MR. HANNAH: Accepted, and without opposition, the second has been entered. The kind lady from Oochey has been standing for a while. You are recognized.

MS. STARR-SCOTT: Starr-Scott. I'd like to speak against this amendment. I do think it's a reaction in trying to fix the current problem that we have. I don't think this is going to be a solution. I think this is a legislative problem. The

Council can legislate this. I don't think it needs to be in the Constitution.

I do believe there were people that were from the Chief's office that testified at some of these hearings, but had I known that a number of people was going to make a difference or influence this delegation, I could have filled this room from people with Delaware County, as well as other counties that have called me and told me, do not go to the meeting.

But that's a position the Council members have been in. If this law were in effect already, we would have some Council members that are sitting here in this body that would not be on the Council now. We had one lady that missed several months. When she was first elected, she did not take her seat for at least four months. We had another one that was in a state political race, that was not at the Council meetings. So I'm telling you people that when you put this in, you better think carefully what you do.

MR. HANNAH: Thank you. Delegate Stopp, you're recognized.

MR. STOPP: Delegate Stopp from Cherokee County.

I am against this article. And as the previous Chief of Staff of the Cherokee Nation for the last fourteen months, operationally I know what it takes to have a Council meeting. I know the importance of having them.

The reason I am against this, because I do believe it's a legislative act versus a constitutional act. In addition, at the time I supported this as a legislative act, we did not have in the Constitution the recall. We've got that in now.

And when we talk about what the people want, the recall vote is what they want. If your delegate is doing what the representation of their population wants, to attend or not to attend, then they are voicing their opinion of that district.

Without the recall in the Constitution, then a supporting documentation such as compelling of meetings in the Constitution is needed. But if we are truly looking at what the people want, give them the recall, take this out because it does not go back to the people. We talked about that earlier. It goes back to the Council personnel.

In addition, I look at some real wording problems that are in here. Three or more consecutive months, that is approximately one hundred twenty days. That is too far for a Council person to miss. I would support some type of legislative act in compelling attendance in all meetings, but only in a legislative act.

Again, I believe this is a legislative act. I believe it takes the voice from the people without currently having the recall or the Constitution asking for it. At that point in time, I think that the recall suffices. Thank you.

MR. HANNAH: Chair would entertain delegate speaking for the amendment.

MR. LITTLEJOHN: Mr. Chairman, Littlejohn

speaking for the amendment, I think. I would like to offer a friendly amendment. I do not believe that the proposed wording is adequate.

I would suggest an amendment that would read: "Council members shall attend all," and strike the word "that the Council shall compel." At the end of Cherokee Nation, I would add "without good cause," then I would start the new sentence by saying, "a vacancy shall exist when a member fails to attend three or more consecutive meetings without due cause."

In response to the question --

MR. GUNTER: Why "or more"? Why not just three?

MR. HANNAH: Just a second here, folks.

MR. LITTLEJOHN: Let me finish with my wording

and I'll --

MR. HANNAH: Exactly. Let's finish with this. We need to make sure. First of all, if the author will accept this before we go through the process of learning it. Mr. Littlejohn, you may continue.

MR. LITTLEJOHN: "A vacancy shall exist." Where it says "a vacancy should exist," "a vacancy shall exist." The word "vacant" should be "vacancy." A vacancy. "When a member fails to attend three or more consecutive meetings without due cause."

A period after "due cause," and a new sentence that will say, "The Council upon request shall conduct a hearing." And then, "The Council, upon request shall hold a hearing at a regularly scheduled or a special meeting and determine the existence or non-existence of good cause. And if good cause is not found, the seat shall be declared vacant."

Now, the rationale of what I'm saying here -- what I'm trying to do is, number one, as the amendment was -- or the new section was stated there, it didn't really make good sense to me that we're trying to compel a Council member to come to a meeting, but if he doesn't come, we can't have a meeting.

If he doesn't or she doesn't agree with the agenda of the meeting, they do not attend, and what good Council person would come to a meeting where the agenda would be to declare that person's seat vacant?

MR. HEMBREE: On order. Is this going to be accepted as a friendly amendment before we discuss?

MR. HANNAH: I was going to allow the kind man to finish his rationale, and hopefully that he would draw his remarks close so we could see if this is in fact a moot point. What do you say, sir?

The Chair will advise both of you before you begin your comments, that if you're going to start down a process of extensive amending of the friendly amendment, that we're not going to go there, okay. So be very careful with your comments. And you're recognized when you're ready.

MR. McCREARY: If the Chair would, I will accept after consultation with my coauthor on this, the first section where

it says, "the Council members shall"; however, the second part where we begin with "a vacancy shall exist," I think we're predisposing that the member is -- or that seat is vacant before we even have a hearing. So under those guidelines, I will not accept that particular section at all.

MR. HANNAH: And the remainder, sir?

MR. McCREARY: The remainder shall remain as it was.

MR. HANNAH: And with no conflict from the delegate who offered the friendly amendment, and without opposition from the second, the language is entered and the floor is open for debate. And Mr. Hembree you are recognized and you've been patient, sir.

MR. HEMBREE: Thank you, Mr. Chairman, and thank the body for indulging me to speak a second time on this issue. But what has taken place, and clairvoyant, I knew it would. What has happened here in just a short period of time since we've opened debate, is we've had a lot of good people stand up here, make a lot of different amendments, and a lot of different little changes here, wording here, you know, commas, periods, should members, et cetera, et cetera.

That's why, ladies and gentlemen, it is the better course of action to allow this to stand in Article XI of this Constitution, Section 2, which says, "All other elected officers shall be subject to removal from office in such manner and for such causes as may be provided by laws passed by the Council."

That means they're taken to committee; they're drafted; they're redrafted; they're voted on this Council that we have elected to take place. And the vote is carefully considered. This is why we shouldn't put very detailed language in the Constitution because it's going to go through several different remissions before we stop here, or before I'm even finished. And then even on the merit of what is up there right now, ladies and gentlemen, it doesn't prevent a boycott, if that's what you want done.

Let's look at the language that is currently up there, and I'm sure something's changed. "The Council after holding a hearing." If you don't have a quorum, you can't hold a hearing. Ladies and gentlemen, we're here to say we want a clock. We are not here to say how to build it. Now, Article XI, Section 2 says we want a clock. Council, you give due consideration, and you do it. Thank you very much.

MR. RUTLEDGE: Call the question.

DELEGATE: Second.

MR. HANNAH: Question's been called and seconded. Vote will be taken to see if debate has ended. All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And motions carries. And the

question is before us.

DELEGATE: I have an objection.

MR. HANNAH: There's an objection.

MR. CORNSILK: Point of order.

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

MR. CORNSILK: The question has been called, voted on, and it's time to vote.

MR. HANNAH: We'll need to know your objection, sir.

DELEGATE: I just had a comment I'd like to make. I've been standing here for about an hour.

MR. CORNSILK: Point of order.

MR. HANNAH: And I'm sorry, sir, the Chair has done his best to recognize those individuals that in fact have been standing at the longest length. By no means, good sir, was the Chair trying to limit debate for your purposes.

The question is before us at this time. With regard to the new section of Article V. And Mr. Vice-Chairman, you will stay close to the Chair and make sure that we are in fact at all times voting on what we're supposed to be voting on.

And the language that we see before us is that: "Council members shall attend all regularly scheduled, duly called special or emergency meetings of the Council to do the business of the Cherokee Nation, without good cause" --

You just did that, didn't you? And you're flying back to Germany, and you're going to be laughing all the way back there. I made them put that in their Constitution. Okay, thank you very much.

"The Council members shall attend all regularly scheduled, duly called special or emergency meetings of the Council to do the business of the Cherokee Nation. Should the member fail to attend three or more consecutive meetings without due cause, the Council after holding a hearing in either a regularly scheduled or special meeting shall cause the members to forfeit their monthly stipend for that period of their absence, or be removed in accordance with Article X of this Constitution and their seat declared vacant."

Mr. Vice-Chair, is that the motion before us?

MR. KEEN, JR.: Yes, it is.

MR. HANNAH: Obviously, if you vote in favor of this, the language would be included, and if you vote it down, it's not.

MS. JORDAN: Can we have a standing vote?

MR. HANNAH: Yes, we can have a standing vote. Thank you very much.

Mr. Secretary, prepare to count those who will all now stand in favor of the motion.

MR. UNDERWOOD: Twenty-six is the count.

MR. HANNAH: Twenty-six in favor. And all delegates being seated. Those in opposition please stand and be

counted by the Secretary.

MR. UNDERWOOD: Thirty-three.

MR. HANNAH: Twenty-six for, thirty-three against, motion fails, and the language is not added to the section.

MR. KEEN, JR.: Point of order -- point of inquiry, actually.

MR. HANNAH: Yes, sir.

MR. KEEN, JR.: I would like to know if Delegate Starr cast a vote.

MR. STARR: I sure intended too.

MR. KEEN, JR.: But did you, sir?

MR. STARR: I stood up, I guess I was counted.

MR. HANNAH: Mr. Secretary, did you count Delegate --

MR. STARR: I was standing with Delegate Jordan whenever the yeas were counted.

MR. KEEN, JR.: Thank you, sir. Point of order. You know, we've dealt with this issue earlier today with Delegate Stopp. Delegate Starr just walked into this chamber just prior to the vote and was not part of any of this deliberation. Now, I would like to request the Chair or maybe even the Commission's propriety on that.

MR. DONN BAKER: What are we doing?

MR. KEEN, JR.: Well, sir -- absolutely right, you did --

MR. JOHN KEEN: Point of order, it is in debate.

MR. HANNAH: Mr. Keen, the younger, please, let's have a seat.

(comments from spectator)

Hold just a second here. Now, first of all, the Chair will not entertain any comment from the gallery. Is that clear, sir?

SPECTATOR: Yes, sir.

MR. HANNAH: All right. Thank you very much. Thank you very much. Sir, we are about the business of our Tribe, and you will indulge us while we in fact keep the decorum of this chamber. I will not allow this to reduce to any other level except for us to be on absolute, absolute top of decorum with one another, and we are about an issue.

And Mr. Keen, you are raising a point, and you're recognized.

MR. KEEN, JR.: Thank you, sir. And I'm not trying to single out Delegate Starr. He just happened to be the person that raises this issue. I feel if we do not have a rule that addresses this, that this body should adopt one.

And I would raise a motion that any delegate not participating in the debate -- or no, strike that. Any delegate that is not in attendance at the beginning of the day, not be allowed to vote for the remainder of that day. He may have a better alternative --

MR. HANNAH: Mr. Keen, why don't you withdraw that motion?

MR. HEMBREE: On order or maybe on clarification, probably.

MR. HANNAH: Clarification I think is how I'm electing to recognize you, sir.

MR. HEMBREE: I don't believe there's anything wrong with Mr. Starr voting because --

MR. HANNAH: That is not the question before us.

MR. HEMBREE: We don't have a problem with that.

In the future, if the Chair would so indulge, that at the time -- on final passage of an item, if he would have the Sergeant at Arms seal the chambers, then we wouldn't have that problem. Just a point of information for the future.

MR. HANNAH: And my good friend from Oklahoma City is recognized.

MS. MEREDITH: May I make a motion that no delegate may vote until he has been sworn in and recognized by the other delegates as being in attendance?

MR. HANNAH: Mary Ellen, please return to the microphone before you make that motion. Let's make sure you know what you said. You're talking about no delegate may vote until they --

MS. MEREDITH: No delegates who are arriving for the first time, that only delegates who are --

MR. HANNAH: Now, Mary Ellen, be careful because Delegate Starr has been here before. This is not his first appearance.

MS. MEREDITH: Oh, I see. Then I withdraw my motion.

MR. HANNAH: Thank you very much.

MR. KEEN, JR.: In answer, if I may.

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

MR. KEEN, JR.: And thank you, Delegate Hembree, for reminding us of the rules that we have already adopted. They are, as I recall, in our standing rules, so it would just be a matter of enforcing those rules.

MR. RUTLEDGE: I would like the indulgence of the Chair for just one second, please.

MR. HANNAH: And Mr. Rutledge is identified with his case.

MR. RUTLEDGE: Thank you. I've been waiting twenty minutes to say goodbye to you all. I just want to tell you all that I enjoyed meeting you all. I'm the richer for having known you. You are my people, and I love you all. Thank you for the opportunity to be here. Hopefully, come Saturday if you're still in session -- I hope and pray for your safety you're not still -- but hopefully I can join you at that time.

MR. HANNAH: Thank you, Mr. Rutledge.

MS. JORDAN: Delegate Jordan.

MR. HANNAH: You're recognized.

MS. JORDAN: I call your attention to the proposed standing rules that we approved. All we've got to do is, number twelve says, all doors to the meeting hall will be closed while votes are being counted. No one may leave or enter until the count is concluded. Just get in here before they lock the doors. That's all you have to do, and then you can vote. Stay in here until it's counted.

MR. HANNAH: And the Chair is in agreement, and if the delegate is require an apology from the Chair for not checking all of the doors prior to the vote here, Chair will endeavor to do just that. I'm sure it was not the intent of the good delegate from Stilwell to disrupt the voting process.

Delegate Starr, you're recognized.

MR. STARR: Thank you, sir. Delegate Rex Earl Starr from Starr Springs, Adair County. I want the record to be very clear and to reflect that I was here prior to the discussion being closed. I was seated over between Delegate Hammons and Delegate Jordan at that time.

Now, I don't know if Mr. Keen didn't see me or what the reason for the comment was, but I was seated there; I participated in the vote. After I was seated back there, then when the other vote started, then at that point in time, I started moving down to sit between Delegate Crittenden and Delegate Baker. But I want the record to be very clear that I was in here prior to the vote.

MR. HANNAH: Delegate Starr, thank you for that.

And if the Chair may be so bold, he would share with Delegate Starr that during your absence earlier this afternoon, there may have in fact been a variety of discussions about the seating of the delegate. And I think the sensitivty that was being shown by the kind gentleman was just one to make that we are in fact not reopening a series of other discussion. So I'm sure that no aspersions were being cast in any direction. Would that be correct, Mr. Keen?

MR. KEEN, JR.: That would be correct.

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

MR. DONN BAKER: I would just like Mr. Starr to wear his name badge so I know who he is.

MR. HANNAH: So we'd be able to recognize him. The kind delegate from Starr Springs is recognized by his name badge.

MR. JOHN KEEN: Calling for orders of the day.

MR. HANNAH: The order of the day, sir, is before us, and it is in fact the proposal that is here, has been voted on, and is in fact in a count of twenty-six to thirty-three. Vote failed, the language is not adopted. And we are still about Article V.

Mr. Keen, you are recognized.

MR. KEEN, JR.: If there are no further

recommended amendments to Article V, all of the recommendation of the Commission have been brought before this body and deliberated. We are prepared to vote on Article V.

Call the question.

DELEGATE: Second.

MR. HANNAH: The question's been called and seconded, with no opposition. We'll move to the question. And the Chair will take an informal recommendation here from the body. Would it be a -- would it oblige the delegates for the Chair to read the article?

THE DELEGATES: No.

MR. HEMBREE: I believe it would be the pleasure of the delegation, although we enjoyed hearing your voice, that we would dispense with the reading of it.

MR. HANNAH: You were doing so well, sir, until you brought that, sir, to the microphone there. In that case then, ladies and gentlemen, Article V is before us, and its subsequent sections; is that correct, Mr. Vice-Chairman?

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

MR. HANNAH: And we will be voting to approve; is that correct?

MR. KEEN, JR.: Approve the language in its entirety of Article V.

MR. HANNAH: Ladies and gentlemen, this is Article V. And the Chair has likened it to the eye-opening, the neck of a hour glass. It has in fact been one of the great focal points of the deliberation here. And so before we take this vote, the Chair would just take an opportunity to thank all of the delegates for your hard work and the fact that we have made it through this particular article, and we're about to find out if we in fact have.

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

THE DELEGATES: Aye.

MR. HANNAH: And those opposed said "no." The ayes have it. The language stands. The article is approved.

Chair recognizes Dr. Gourd.

MR. GOURD: Mr. Chairman. I'm not sure of the proper procedure, but just a point of personal privilege.

MR. HANNAH: You were recognized, sir.

MR. GOURD: Earlier today in visiting with a number of delegates, and it may be procedurally out of order, but I would like to request permission to read a simple resolution of thank you to the person that is in the chamber.

MR. HANNAH: Please, proceed Mr. Gourd.

MR. GOURD: "Whereas the 1999 Constitution Convention of the Cherokee Nation assembled in Tahlequah, Oklahoma on February 26th, 1999, and whereas delegates to the 1999 Constitution Convention of the Cherokee Nation assembled accepted by acclamation the appointment by the Constitution Convention

Commission, Ms. Tina Roensberg of Berlin, Germany as an honorary delegate to the 1999 Constitution Convention of the Cherokee Nation.

And whereas Ms. Tina Roensberg performed an invaluable service to the 1999 Constitution Convention of the Cherokee Nation as a volunteer.

Now therefore, be it resolved that the delegates to the 1999 Constitution Convention assembled hereby unanimously declare and extend our heartfelt gratitude to honorary delegate Tina Roensberg for her service to the 1999 Constitution Convention of the Cherokee Nation. And be it first resolved that the delegates assembled, hereby direct the officers of the Constitution Convention and the Constitution Convention Commission to sign on behalf of the delegates."

Motion to approve.

DELEGATE: Second.

MR. HANNAH: Motion to approve, and consent has been asked for. All of those in favor, please signify by saying "aye."

THE DELEGATES: Aye.

MR. HANNAH: Young lady, will you please stand and accept this? Charlie, please.

MR. GOURD: He asked if her name was spelled right at this time. And I asked her for it the other day.

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

MR. KEEN, JR.: Again, I just want to thank Tina for the work that she's done. She was called upon on short notice with absolutely -- had no idea what she was getting herself into. I think she's done a wonderful job for us, and I think she has to leave us tonight to go back -- you get to stay.

MR. HANNAH: In that case, give the certificate back, young lady.

MR. KEEN, JR.: I would also just like to note for the record that the previous vote on Article V was by a unanimous vote. And that's all I have.

MR. HANNAH: It's reflected in the record.

Thank you, Mr. Keen.

Well, here we are. It is three minutes till the hour of five. And if I recall, we are in the process of preparing to recess for the evening meal. Dr. Gourd, the Chair takes great delight in thinking that this convention has moved to another of its success mile markers, as the Chair has measured them by us successfully arriving at another meal. And what are the preparations for the evening meal?

MR. GOURD: In the union. I understand it's on the second floor, our usual spot.

MR. HANNAH: Our usual spot. That would be on the second floor in the ballroom is where that would be.

Now, Rick, you are at the microphone before going to the evening meal. This should be important, sir, and you're recognized.

MR. ROBINSON: Delegate Ricky Robinson,

Tahlequah. I hope that I'm in order, but I want to make a motion to recess until in the morning. We've come to a good spot to stop. Article VI is up next, and I would prefer to start that fresh in the morning.

DELEGATE: Second.

MR. HANNAH: There's a motion on the floor to recess until eight o'clock tomorrow morning.

MR. ROBINSON: I think that's in order because it's a short period of time. Yes, that's what I'm saying.

MR. HANNAH: The Chair is not -- just making sure that he has the right motion.

MR. ROBINSON: I prefer ten because I like to sleep late, but I'll come here at eight o'clock.

MR. HANNAH: We understand. And of course, the Chair is always pointing out information that the delegates need to know. The buses, Mr. Gourd, will be available for those using them at eight-thirty this evening?

MR. GOURD: Yes.

MR. HANNAH: Okay, very well.

Motion is before us to recess until eight a.m. tomorrow morning. And there's a second?

DELEGATE: Second.

MR. HANNAH: And floor is open for debate, and you are recognized.

MS. TWINING: Nancy Twining from Sacramento, delegate. I'm sorry. All I heard was the bus is at eight-thirty. Was that tonight or in the morning?

MR. HANNAH: Okay. Thank you very much. Point of clarification. The bus is -- apparently, Dr. Gourd will be taking folks back to the hotel at eight-thirty this evening.

MR. GOURD: Yes.

MR. HANNAH: That is true. So the buses are at eight-thirty returning to wherever it is they brought you from this morning. The Chair is --

MR. HOSKIN, SR.: Point of clarification.

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

MR. HOSKIN, SR.: Mr. Gourd -- or Dr. Gourd, aren't those buses from our high school, Sequoyah High School?

MR. GOURD: Yes.

MR. HOSKIN, SR.: Can we not make arrangements to bring those buses here before eight-thirty this evening, if need be?

MR. GOURD: I was just preparing to run to the phone. They leave at five, sir.

MR. HANNAH: The Chair, if this motion -- well, whether it passes or not. But the Chair will endeavor to see to it that transportation is made available for those of you who have needed to have such.

First of all, any other debate needed or clarification needed at this time?

DELEGATE: Call the question.

MR. HANNAH: Question is called for. And hearing no opposition, we'll move to it. Motion is on the floor to adjourn until eight a.m. tomorrow morning in these chambers. It has been seconded. And all in favor please signify by saying "aye."

THE DELEGATES: Aye.

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

THE DELEGATES: No.

MR. HANNAH: And the motion stands, and we will see you here in the morning at eight a.m.

(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 1st day of March, 1999, at the 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 July, 1999.

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