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BEFORE THE CHEROKEE NATION
CONSTITUTION CONVENTION COMMISSION

NOVEMBER 21, 1998
KNIGHTS OF PYTHIAS LODGE
CLAREMORE, OKLAHOMA

* * * * *
A P P E A R A N C E S

COMMISSIONERS: Dr. Charles Gourd
Luella Coon
George Underwood
Paul Thomas
Jay Hannah

* * * * *
I N D E X

SPEAKERS
Glenn Henson, Sr. (by cassette tape)..... Page 2-5
Keith Hunter Page 6
Butler Welch Page 7-40
Reporter's Certificate Page 41

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1 Thereupon, the following proceedings were had:

2

3 GLENN HENSON, SR.

4 (by cassette tape)

5 MR. HENSON: This is very difficult
6 for the Cherokee history. It could be one of the
7 brightest times if the people would sit back and use
8 common horse sense. One article specifically catches my
9 attention, Article 1, Section 1, which pertains to the --
10 it says in the Cherokee Constitution, it's saying that
11 the Constitution in that Article is now in conflict with
12 Federal Government laws of conflicts.

13 It says in there that no laws could be in
14 conflict with the laws of the United States Government,
15 Article 1, therefore -- therefore -- the Congress ought
16 to have a lot more room to convey and the House, our
17 House, and the Senate.

18 So someone needs to put that -- (inaudible) --
19 and don't put it back in there. That caused quite a bit
20 of confusion. It's quite clear to a lot of us, but it
21 could cause confusion. We need to all put in our
22 thoughts and get some of these things ironed out, and we
23 need to work together. It's not good for one Tribal
24 member to try to be out-guessed, to try to be --
25 (inaudible).

1 Like in President Cleveland's time, Humphrey
2 versus United States, they occasionally heard that the
3 president of the United States did not violate the
4 Constitution when he ordered Humphrey impeached because
5 he could order any member of the Administration
6 impeached, provided they always go right to the Supreme
7 Court Justice. It's been ups and downs.

8 The whole purpose of all Constitutions -- the
9 gentlemen of the old Supreme Court were not as
10 knowledgeable as some of us, but we need to get down to
11 basics.

12 I want to be looking ahead for the future for
13 the little ones. Some of us don't amount to a hill of
14 beans. We need to be planning what we're going to be
15 doing in the future. The future is most important. We
16 need to see our youngsters coming up are taking advantage
17 of education. There is money out there. If they don't
18 sit back on their B's, they can rise up occasionally and
19 say, (Cherokee dialogue).

20 So that's where we are. This record is not
21 very long, but I don't want to say anything because my
22 throat gets sore and dry.

23 I call for all Cherokees and others in this
24 area to unite and work together. Sometimes I've had some
25 real, real bitter thoughts about a lot of different

1 members, but that won't get the job done. There are good
2 people, and I hate to say it, but they have some good
3 points, and we should have had some good -- (inaudible).

4 We've had way back there when they should have
5 been up there -- (inaudible) -- for money that was
6 illegally spent way back there during the Mankiller
7 Administration. They have got Mankiller, I saw no
8 profits.

9 They had a whole lot of meetings at the
10 courthouse that they're knowledgable of. They didn't
11 have enough meetings in there. They're going to wait
12 until the last minute, then there won't be anything. I'd
13 like to be able to see it. I couldn't see now, to see
14 how many meetings were held before each election.

15 And, you know, I always see the votes from the
16 absentee. They are always out seeing about the absentee
17 votes. I'd like to see that they come, that the houses
18 and the top administrators, the elected officials, and
19 all other type administrators, everything that they
20 have -- these settlers sell Oklahoma -- (inaudible) --
21 they worked hard to acquire what they have.

22 But, this formulates doubt for people to get
23 out there and acquire and build something because you
24 hear all kinds of rumors that we had pictures before
25 election day, and prior to election day, they would say,

1 "We've got this house, or I've got this roof; I've got
2 these buildings." They would look you in the eye. I'd
3 like to go up there and see a change in the other
4 direction.

5 And if I've done anything wrong, I apologize.
6 Thank you very much for what I've told today.

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1 KEITH HUNTER

2 MR. HUNTER: Through our meetings,
3 I've been thinking about it the other day. I think the
4 possibility that we should maybe think about getting
5 somebody instated such as an Attorney General to help
6 with making decisions instead of just behind closed
7 doors, two or three people saying, "Yes, let's go after
8 this."

9 It could help in the regulations with say,
10 internal audits or things of this nature for misfundings,
11 to have somebody like that empowered. That's about the
12 only thing I can think of right now.

13 MR. THOMAS: Would you want that
14 appointed or elected?

15 MR. HUNTER: Elected, I would say.

16 MR. THOMAS: Elected office?

17 MR. HUNTER: Yes.

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1 BUTLER WELCH

2 MR. WELCH: May I address a concern
3 of some of the major things that I've thought of over the
4 years that have been difficult to handle in the Cherokee
5 Nation? Most all of you know that I've been involved in
6 the Cherokee Nation one way or the other for many years
7 since 1950-something.

8 My father was Austin Welch, my grandfather,
9 Cobb Welch, and they were original members of the United
10 Keetoowah Band. United Keetoowah band, I make a point of
11 saying, in Adair County, and they were instrumental years
12 ago in dertermining some of the things that should be
13 done in Cherokee Nation affairs.

14 I was present when we made the decision, or
15 they made the decision, or whoever did make the decision
16 of how we should go about getting the money that Paul was
17 talking about a few minutes ago. And I call your
18 attention to the fact that the common wisdom in those
19 days was that the Cherokee Nation as a government did not
20 exist. I'm sure that most of you men will remember that,
21 and Luella, especially.

22 And they said that we were destroyed. And
23 Mr. Keeler and Mr. Pierce in their infinite wisdom
24 decided that the proper thing to do would be to utilize
25 the United Keetoowah Band to reestablish the Cherokee

1 Nation. I think that Paul was present when some of those
2 discussions were held. I know I was, and I believe I
3 remember him being there.

4 The upshot of the matter was that that's how
5 the litigation was filed, that's how it was conducted.
6 This is how we got our legal status, really, if we enjoy
7 such a thing, as Cherokee Nation. It was through the
8 United Keetoowah Band. Cherokee Nation in particular has
9 attempted to destroy that organization. It's gone to
10 great lengths to do that.

11 I call your attention to the '89, wherein the
12 Assistant Secretary wrote that the Cherokee Nation had no
13 official standing, and they were simply a bunch of
14 renegades. Mr. Gourd, I'm sure will remember that
15 occurrence.

16 The reason I'm telling you these things, we're
17 all Cherokees. There should not be two major groups of
18 people attempting to govern in Cherokee Nation. We
19 should encompass all of these people.

20 It's very obvious that I'm a thin-blood and
21 I'm only quarter, but it's very obvious from my actions
22 over the years that I've been most interested in doing
23 the things that are right and proper for the Cherokee
24 Nation.

25 So with those thoughts in mind, I suggest that

1 we make an utmost attempt to bring in the United
2 Keetoowah Band as members of CNO. I think it's most
3 important.

4 Further than that, our Judicial system must be
5 revised in such a manner that the people choose our
6 Justices and our people who serve as our judges. And I
7 say that knowing how it was done that everyone can say,
8 "Well, the people did do this because they were done by
9 the Council and the Chief, and they are elected
10 officials." I think they should be voted upon just as
11 Council people are.

12 They are most important members of the
13 Cherokee community and Cherokee Government, and Cherokee
14 people should have the right and privilege of electing
15 those people to their posts. And those posts should be
16 limited posts, a time limit, that they're not there for
17 life, that they're not appointed, and they stay there the
18 rest of their lives because that they're able to
19 manipulate those people in power over the years.

20 I'm not saying that anyone is doing this; I'm
21 saying that this is a possibility that can happen, and it
22 must be changed so that it does not happen.

23 I would also tell you that there are members
24 of that Council who have been on that Council since its
25 inception, and I have never to this good day seen

1 anything that they have ever done that has been
2 beneficial to Cherokee people.

3 They've attended every meeting, I'll grant
4 you, and they said, "aye" and "nay" at the proper time,
5 and there should be a term limit just as we have in our
6 Congress. These are things that are vital to our
7 existence and are in our continued goodwill from the
8 Federal Government.

9 Further than this, the Chief should have --
10 all of the terms of government should be limited to a
11 certain length of time. I suggest that we look at our
12 Senators and our Congressmen for guidance in these
13 matters, United States Senators.

14 And I will call your attention once again to
15 the fact that one of our former Presidents,
16 Mr. Jefferson, took some of the ideas that the Cherokee
17 Nation had and incorporated them into our original
18 Constitution. And you people that are the history
19 buffs -- and I know that Charlie is. In fact, I think I
20 heard Charlie expound on that situation at one time.

21 And then, getting down to some little
22 nitty-gritty foolish things, those people who represent
23 each district, those people who represent each district,
24 I would suggest that they live in their district, they
25 maintain a residence and they be here, that this is their

1 home, and this is who they represent. And though they
2 may be have a place where they spend the night in
3 Tahlequah during the course of business, that they return
4 to this county or whatever county or district that they
5 belong to as a part of that same.

6 We've lost track of those people, and we lost
7 contact with those people, and we cannot reach them or
8 talk to them because they're more interested in things
9 that are common to Tahlequah in Cherokee County and Adair
10 County than they are the Cooweescoowee District. And I
11 tell you now, I resent that from any of those people.

12 One other thing before I go. I do want to
13 tell you that I'm not saying any of these things to
14 degrade anyone or to say that anyone is right or wrong or
15 indifferent in our so-called Constitutional problems this
16 summer, but we did nothing in the world except embarrass
17 every member of the Cherokee Nation when those situations
18 occurred. That was horrible. That should never have
19 occurred. What in the world was our leadership thinking
20 of to allow these things to have occurred?

21 We need safeguards that this will not happen
22 again, and I'm going to quote myself in a meeting one
23 time in Tulsa. And I said that night, and a long time
24 ago, there are times when I'm distinctly discusted and
25 ashamed of Cherokee people for allowing some of the

1 things that have happened and occurred in the past twenty
2 years.

3 There was a time when we lent the Federal
4 Government money in which they operated on. We were a
5 vibrant part of citizenship of Oklahoma. We could decide
6 what was best for ourselves without benefit of foreign
7 interests coming in here from Washington to tell us what
8 we needed to do and how we needed to go about doing that.
9 I think we should return to that.

10 The time is long past when Cherokee people and
11 Cherokee Government should be crying to the Federal
12 Government to fill their cook pots at night. That's sad
13 and it's discusting that it's occurring now. And we have
14 the means to stop this foolishness with our Riverbed and
15 those other things that we have in our arsenal of assets.
16 They should be utilized properly, with proper safeguards,
17 I might add, so that these things will not fall into the
18 hands of people who make their living as advisors to
19 Cherokee Nation.

20 And after having just about fussed out
21 everybody in sight in Cherokee Nation, I will tell you,
22 thank you very much for an opportunity to speak to you.

23 MR. UNDERWOOD: Butler, on your
24 Judiciary changes, you suggest that we have an election.
25 What term limits would you suggest?

1 MR. WELCH: Not more than six, not
2 less than two to be staggered.

3 MR. UNDERWOOD: Are you suggesting
4 six years and then staggering them into two-year
5 increments?

6 MR. WELCH: I don't believe that any
7 faction can take advantage of our Judiciary with that in
8 mind.

9 MR. GOURD: As a question on that,
10 how many would serve on the -- I agree with the
11 proposition that's been stated, it needs to be changed
12 from Judicial Appeals Tribunal, we need to --

13 MR. WELCH: Absolutely, sir.

14 MR. GOURD: We need to actually
15 vilify, and verify, and then firmly establish a
16 Constitutionally based, free, independent Judiciary;
17 that's essential.

18 MR. WELCH: My very point exactly.

19 MR. GOURD: How many judges should
20 there be to serve these six-year terms which would be
21 staggered and elected every two years? How many would be
22 proper for that body?

23 MR. WELCH: I would suggest five.
24 Now, the reason for suggesting five is, I believe that we
25 need to make provisions for those of us who age. Many of

1 us, or many people -- not myself, of course. I say "us,"
2 I'm talking about aging process, that we grow too old to
3 serve. We need to address that situation.

4 We don't need to have people on there who are
5 simply serving because that we revere them and their age.
6 We should make provisions some way or another to make --
7 give them a title perhaps, but remove them from
8 day-to-day operations as Judicial people.

9 Everyone knows that the Cherokee people,
10 historically, are political people. We once bragged that
11 we had some of the greatest orators in the world, and I
12 think that's the case. I don't think people should serve
13 on those committees or in those offices simply because
14 that they do those things or because who they are.

15 And it should not be that they should not be
16 elected from districts; they should be elected overall in
17 the Cherokee Nation. And I've come to that point again,
18 since we've gotten back to the election, and that's a
19 very dear thing in my thinking.

20 Our elections system must be changed in order
21 that there will never ever be the accusations and the
22 accromony and the bitterness and the hate that occurred
23 the first election by absentee ballots. Those are things
24 still fresh in my mind and my memory, and in many other
25 people. And I'm sorry that's the case, but I'm a

1 Cherokee and I don't forget. We need to put things in
2 the Judiciary that governs the elections so that these
3 things will not occur.

4 And at the risk of sounding like a small
5 person with narrow thoughts, I will tell you that if
6 people want to vote in Cherokee Nation elections, let
7 them come to Oklahoma and vote. And those people who are
8 far removed, far, far away, who have no interest in
9 Cherokee Nation other than the fact that there is a name
10 that they're familiar with, and they vote for that
11 person, that should stop.

12 And the only connection that they have is the
13 fact that Aunt Emma lives down on the creek down here,
14 and we used to write to her, but she's gone now, and so
15 we don't have any more connections. And that happens, as
16 you all well know.

17 I've been to California and talked with those
18 people there, and I've been to Texas, and I've been to
19 Georgia, and these other places and talked to those
20 people, and that's how they vote. And they have no
21 interest, monetarily or emotionally in Cherokee Nation
22 business other than the fact that they're Cherokees, and
23 we've degenerated into a large social club. And that's
24 kind of sad.

25 Now, have I properly offended almost everyone

1 everywhere about the thoughts that I have concerning this
2 matter? But I wanted for a long time to be able to say
3 these things. And I have one more comment and then I'll
4 quit.

5 You all know -- all of you are old as I am, or
6 a bit younger -- that the only thing that's in this
7 Constitution today that was written by the Constitution
8 Committee, which I served those years ago, it's a
9 preamble that's all. Nothing. We had a good
10 Constitution. We put together a good document.

11 And the things that are in this Constitution
12 today and what we wrote, it's pitiful, pathetic. It was
13 revised, and people voted on it, not knowing what had
14 happened. Over the years, I've had people come to me and
15 say, Butler, "You were a part of that first Constitution
16 committee; why didn't you do something about this"? We
17 did do something about that, but it didn't come to pass.

18 And so with those thoughts in mind,
19 Mr. Chairman, thank you so very much for having allowed
20 me to speak.

21 MR. UNDERWOOD: We may not let you
22 quit so fast. You mentioned term limits. What limits
23 would you suggest?

24 MR. WELCH: For lack of anything
25 better, I would follow the preamble of our Constitution

1 and tell you that we'll make no provisions in our
2 Constitution contrary to the Federal law. I suggested we
3 follow the Federal law, two years for the lower house and
4 six for the other, or four, whatever -- four for the
5 Senators, two for the representatives, and six for the
6 judges.

7 MR. GOURD: That would be the term
8 for which you would run for office?

9 MR. WELCH: Yes, sir.

10 MR. GOURD: This whole discussion on
11 term limits from the point of view of people running for
12 Congress for congressional office and things, I'm only
13 going to run for two terms. There is a term limit of two
14 years for four years or whatever.

15 MR. WELCH: Yes, sir.

16 MR. GOURD: What about when you talk
17 about term limits; are you saying the number of terms?

18 MR. WELCH: No, sir.

19 MR. GOURD: There's been discussion
20 on both sides of the fence, is why I'm asking. Because
21 there's been discussion on the number of years for the
22 term of office, the number of terms which you can run,
23 and then you have to sit one out and run again or run for
24 a higher office. There's been some very good discussion
25 on this. I'm glad you brought that up.

1 MR. WELCH: May I address my thoughts
2 about that?

3 MR. GOURD: Yes.

4 MR. WELCH: We've got a very good
5 built-in term limit condition at the voting ballot. It
6 works pretty good most of the time. Sometimes not, but
7 most of the time it does. But our President can only
8 serve two terms in succession and our Governor, and I
9 think that should be a provision for our Chief.

10 Not necessarily because of that; I think that
11 is a good round place to stop, that we never create a
12 situation when one man can take hold of the Tribe as a
13 Chief and remain there his entire life. I think that's
14 also applied to the Judiciary. We should not have anyone
15 anywhere in that Tribe or in that government that can
16 take an office and remain there the rest of their lives,
17 and that's their job all of their lives.

18 I'm not saying that they are bad people. I'm
19 not saying they make bad decisions. I think that is bad
20 for the people and the Constitution because they lose
21 track of what is happening out in the real world.

22 I think our Senior Senator has lost track of
23 who lives in Oklahoma, that is, I'm saying that about our
24 National Government. I'm saying our Junior Senator never
25 did ever know, but then that's a personal opinion, and I

1 attempt to do something about that every time I go to the
2 polls. And that's what everyone should do.

3 But I shouldn't be able to make the decision;
4 Chief shouldn't be able to make the decision; the
5 Judiciary shouldn't be able to make the decision; the
6 people should be able to make the decision is my point in
7 the thing that I'm talking about.

8 MR. GOURD: With the idea toward, you
9 mentioned on the judges, staggering the terms.

10 MR. WELCH: Yes, sir.

11 MR. GOURD: What about our current
12 situation for all elected offices, Chief, Deputy and all
13 fifteen Council, it's theoretically possible to replace
14 everybody all at once. Would you be in favor of
15 staggering the terms through some system of the Council?

16 MR. WELCH: Absolutely. I think it's
17 most important. I think it's most important. Let me
18 give you an idea. Here is a guy up here in Cooweescoowee
19 District; he's going to run for Councilman. He doesn't
20 like all of their things that's happening down there, and
21 he's never been to a Council meeting. He has no idea
22 what the laws are. He's going to go down and change
23 everything.

24 He goes out and campaigns on this idea, "I'm
25 better than they are, because I've never held office down

1 there." Now, you know better than that. That's not
2 proper and right.

3 But they shouldn't serve so long that to think
4 they own the dog-gone thing either. But at the same
5 token, this guy can go campaign that I have fresh ideas,
6 and that I'm the better pattern because I fresh ideas,
7 and somebody mistreated somebody next door do me, and so
8 I'll go down and get this thing straitened up.

9 It should be an overall picture, not just a
10 small little, bitty thing that happened next door to us.
11 We should have an overall picture, and those people that
12 serve should have an overall picture of their district
13 and of the Nation. Not just the district, but of the
14 entire Nation. Does that make sense?

15 MR. GOURD: Yes. What about
16 qualifications? I was thinking in particular about, you
17 know, should someone have a law degree and a license to
18 practice in the state or whatever or Judicial?

19 MR. WELCH: No, sir.

20 MR. GOURD: Should you have to have a
21 high school diploma to run for Council or a Master's
22 degree to run for Chief or a blood degree qualification?

23 MR. WELCH: None of the above. None
24 of the above. None of the above. May I call your
25 attention that many of the Tribes here in the state of

1 Oklahoma, their judges are not members of the BAR. I
2 know George is very well aware of this. He knows about
3 the Creek Nation down there. He knows about Clarence
4 Cloud, and he knows about -- I can't even say his name at
5 the moment.

6 But neither of those men had law degrees, and
7 they made good judges, and they made good decisions. And
8 I'll guarantee it, that they got enough advice that they
9 should have made good decisions. They were down-to-earth
10 men who were intelligent, inately intelligent, and
11 they're inately shrewd, and they made good decisions for
12 Creek Nation.

13 A few of them, I thought they might have been
14 a little change in them, but most of the time this is the
15 case. How about your Pawnees and Otoes up here, the Red
16 Rock Otoes? Do you know their judges up there? They're
17 not lawyers. They don't get in the newspaper very often
18 about the silly things that they did either. Not that
19 because we have lawyers, we did silly things; I don't
20 mean that.

21 I mean that they're good people who made good
22 decisions with good advice on a down-to-earth basis, and
23 that's what law is about, that we protect our people with
24 the law. We protect them from each other and them as a
25 whole from the government, and the government from the

1 people. And that's what judgeship is about.

2 MR. GOURD: You mentioned on the
3 issue of election. Would you be in favor or opposed to
4 having a resident requirement --

5 MR. WELCH: Absolutely.

6 MR. GOURD: -- to vote, and if so,
7 how long would you have to have maintained or held that
8 residence to be a qualified voter?

9 MR. WELCH: One year, that's plenty.
10 They're not going to come back here just for a year to
11 get to vote. If they want to be a Cherokee and be a
12 Cherokee of Oklahoma, and the seat of the government is
13 in Oklahoma, that's where we should come to to vote, and
14 that's where we should conduct our government. And those
15 people that are far removed and have no service areas
16 governed by the Cherokee Nation, why should they be
17 making the decisions on how you and I are served?

18 MR. THOMAS: In 1991 --

19 MR. WELCH: I know what you're going
20 to say.

21 MR. THOMAS: Pardon me?

22 MR. WELCH: Go ahead. I know what
23 you're going to say.

24 MR. THOMAS: In 1991, I ran for
25 Council and I got beat.

1 MR. WELCH: So you did.

2 MR. THOMAS: Which is okay; as long
3 as I get beat fair and square, I have no problem. I
4 called my brother in Phoenix, and I sent him a list of
5 people in Phoenix for him to call on the telephone. I
6 was interested to know why things happened.

7 He called these people and identified himself;
8 he lives there. And he said, "My brother is running for
9 Council, and he wanted me to call each one of you and ask
10 if you had voted yet, and if so, who you voted for, if
11 you don't mind telling, and why."

12 I ran against William Smoke. And the answers
13 proves what you've been saying -- "Well, Smoke sounded
14 more Cherokee than Thomas, so I voted for Smoke." And
15 then there was the answer, "Well, I've got a cousin that
16 wrote me and told me who they thought I should vote for."
17 And then there was the answer, "Well, Wilma has sent
18 material out recommending Smoke, and he had the backing
19 of several other Council people, so that's why we voted
20 for William Smoke."

21 So what Butler is saying here, it actually has
22 been happening in our out-of-state people. And as you
23 eloquently pointed out, if you want to vote in the Osage
24 Nation, you come to Pawhuska; you vote; they put the
25 three locks on there; set it on a jet airplane; it's gone

1 to New York, and it is counted, tallied and flown back
2 here, and you never hear anything about the Osage
3 elections being rigged or anything distasteful happening.
4 So there's something to be said about that.

5 I wanted your thoughts on the Drenner roll and
6 all of these others. Without a doubt, we've got
7 Cherokees out there that are absolutely frustrated. I
8 see them every day at the courthouse in Pryor; my office
9 is in there, and I'm handy. They look like they could be
10 quarter, half-breed, or whatever, and they can't prove
11 anything.

12 To illustrate this, I was working as a parole
13 officer years ago, and I went down to a full-blood's
14 house. I had his boy on parole. He was sitting out in
15 the yard, and I said, "Dave, where was your allotment?"
16 He was very short; a man of few words. "Didn't get one."
17 And I said, "Well, you're old enough, aren't you, to be
18 an enrollee"? He said, "Yeah, yeah." I said, "I wonder
19 why you didn't get one." "Too damn much Indian." That
20 was his answer. Too much Indian to get one.

21 Come to find out, his folks were Keetoowah
22 people, and they didn't subscribe to the allotment
23 system, which my folks didn't either. They wanted us to
24 be State of Sequoyah, and my grandmother's cousin Darius
25 Ward was selected by the President of the United States

1 to serve with Mr. Coffee and three other gentlemen to be
2 on that Board, but it wasn't to be. The white people
3 didn't want this to ever happen, so it didn't.

4 MR. WELCH: May I address that
5 question, since it seems like I simply got out here at
6 the podium and refused to sit down.

7 MR. GOURD: You offered; we're
8 keeping you up there.

9 MR. WELCH: All of us know these
10 things have occurred. All of us, most all of the elder
11 people in these rooms know how that occurred. We've
12 heard stories from our fathers and our grandfathers about
13 what did occur at those times and how all of these things
14 happened.

15 And when the Bush rode his mule from his home
16 in what is now Adair County, to the Kansas line and west
17 of Osage, and south to Tulsa and back again, and he
18 campaigned against this among the full-bloods.

19 I don't think they wrote about that much in
20 the history books, but it occurred. And he was a man who
21 was badly crippled, if you remember, or seen his picture.
22 And instead of riding a horse, he rode a mule because a
23 mule rides easier and is more durable than a horse.

24 And he campaigned all over the Fourteen
25 Counties. Everywhere. And the way he campaigned is, he

1 went to people's houses and they met and gathered and
2 talked about what they should do. Well, the man was
3 full-blood Cherokee. And I say that saying that we
4 should all be served by Cherokee Nation. All of us.
5 Whether we were a Nighthawk Keetoowah or we went to
6 Sequoyah Convention, all of us should be served.

7 And so, I will tell you very frankly that I
8 think it would behoove the Cherokee Nation today to make
9 provisions in this present and upcoming Constitution to
10 take in those people that we lost at statehood. We
11 should make provisions to take in those people and their
12 descendants, the Bushes and the Smiths and those other
13 people who live in eastern Oklahoma and are very
14 obviously in appearance and actions Cherokees.

15 We should make them a part of our government.
16 They should not be excluded. No way, form or fashion.
17 We should make a method of taking care of those people.

18 MR. GOURD: Directly, we related
19 that, it's my understanding that the Cherokee Nation at
20 present is the only Federally recognized Tribe that has a
21 quote, unquote "closed roll." We go down and we get a
22 CDIB card and trace to someone who was on the roll, and,
23 therefore, are Cherokee, and then go over here for a
24 membership.

25 Related to this issue of not only the

1 potential of taking in those we lost at statehood --
2 that's an eloquent statement; I appreciate that -- but
3 also, there's, to me, the issue of citizenship and the
4 whole thing of this "closed roll."

5 The other of the Five Civilized Tribes have an
6 open roll. You actually accomplish a roll there. Where
7 is the difference between this idea of a roll and
8 citizenship? Where does that play to establish those who
9 are eligible for citizenship and, therefore, to run for
10 office and participate in our government?

11 MR. WELCH: Well, not strangely, but
12 I do have an opinion concerning that matter since I've
13 had an opinion on almost everything else. What do we
14 have? The Miller, the Drenner -- what else, Charlie?

15 MR. GOURD: Well, there's the Dawes
16 Roll, the Cherokee Census, the ten-year census through
17 Indian Territory days.

18 MR. WELCH: The early settlers, the
19 people in Kansas, the people in Arkansas, all of these
20 things here, they were in a little bit of a hurry in
21 those days of statehood, and there were political things
22 that they had to overcome and political things that they
23 had to take into account. And so they did the very best
24 I'm sure that they possibly could, most of time, in
25 choosing who was going to be members.

1 And if we'll read some of the old documents
2 about how people were allowed to be members of the
3 Cherokee Nation who were obviously white, and that
4 occurred; we all know of that, but we excluded these
5 other people.

6 I will digress just a moment to say, if we
7 change any of these things, if we make some way of
8 changing any of these things, we'll have to go to
9 Congress to do it. I would ask to think just a moment
10 who would we go to, who of our representatives or
11 Senators would we go to, to get them to do these things
12 for us.

13 This constitutes a real problem. I'm not
14 being facetious about the matter. We all recognize that.
15 These men are dedicated to our destruction. That's how
16 that is. I'm looking at Charlie because he's not
17 disagreeing with me.

18 But the truth of the matter is, someone wiser
19 than I should make a -- and more than people wiser than I
20 -- a group of people wiser than I should make some
21 determination of how these people should be incorporated
22 in the Cherokee Nation. I don't know the best way to be
23 done. I haven't given it that much thought, but it
24 should be done.

25 MR. GOURD: In reference to that,

1 would you be of the opinion that you would accept, for
2 example, a family historical document under which,
3 instead of leaving, for example, from the state of
4 Georgia, a Cherokee would go to the nearest Federal
5 Magistrate and swear an allegiance and change from being
6 a citizen of the Cherokee Nation, surrender their Tribal
7 identity and become U.S. citizens? Should those persons?
8 The whole issue of documentation, once this is flown
9 open, it's going to create a --

10 MR. WELCH: Mad-house. Terrible
11 mad-house.

12 MR. GOURD: Part of the discussion
13 that's been held is that you increase the capacity for
14 fraud, the potential for fraud, et cetera, et cetera.
15 That is what we have now anyway.

16 MR. WELCH: These are questions that
17 should be decided with people far wiser than I. I don't
18 know how you would go about doing that. I was going to
19 say, and just at this moment, that you talk about opening
20 the door for fraud, my, oh, my, oh, my.

21 I can think of ways that people could get rich
22 doing this. I can think of lawyers who can go about
23 getting rich by establishing those people as members of
24 the Cherokee Nation. And how that should be done, I
25 don't know. My thinking ended along about the time I got

1 to the end of those rolls and descendants of those roll
2 members, of the Miller and the Drenner and the others.

3 I'll call your attention to another problem
4 that will arise here. Whenever there is money
5 involved -- and rest assured that this is considered by
6 many people, money, money only. In fact, we had some
7 rather very harsh words not long ago, and my wife stepped
8 in between me and a guy at the Indian Hospital up here
9 about that matter.

10 A man that I had grown up with who had said
11 some most unkind things about the Welches being Indians
12 when we went to high school. In fact, we fought about it
13 then, and we almost fought about it up here just
14 recently.

15 And I saw him, and I said, "Aren't you
16 so-and-so," and he said, "Yeah, I know who you are;
17 you're Butler Welch." I said, "Yes, I am. What are you
18 doing down here; why are you here?" He said, "I've got
19 a card number. I've got a roll number." I said, "How in
20 the world did you ever get a roll number?" He said, "My
21 grandfather was so-and-so, and I got a roll number, and
22 I'm one hundred and one sixty fourth or some such a
23 matter."

24 Well, my next remark was one calculated to get
25 a black eye. I resent that. I resent it. I'll say it,

1 and I don't apologize for anything that I said. This man
2 and that family grew up in what we used call, "Nigger
3 Bend," and that's the wrong thing to say, but that's
4 where they grew up. And they consistently over the years
5 denied that they were any part of Cherokees,
6 descriminated against them, would not hire them to work
7 on their property, and now then they're descendents, and
8 receiving services out here at Indian Hospital, and I
9 recent it. I don't like it.

10 I think it's wrong. And that's little and
11 mean and hateful, and I agree that that's the case. I'm
12 not going to lie about it that I feel that way.

13 I don't know how you would go about doing --
14 what to do. I just opened Pandora's box that could cause
15 litigation for the next twenty-five years, didn't I?
16 Didn't I, George?

17 MR. UNDERWOOD: Well, we've got to
18 think about it though.

19 MR. GOURD: What is happening in
20 three places currently in Arkansas, four in Georgia, one
21 in Kansas, there's Missouri, when you talk about the
22 issue of money and the potential for fraud, these people
23 are selling memberships, and they're Red Nation of
24 Cherokee Indians; there's a whole list of them. I get
25 these constantly, and they're charging forty-five and

1 fifty bucks to get a card.

2 In one group, if you look at your CDIB card,
3 it says United States -- no, it says Department of
4 Insured; it doesn't say United States. But it's an
5 identical card to CDIB, and then they're showing up here
6 at the hospital, and people aren't carefully looking at
7 those cards, and they're getting services.

8 So, you know, at some point in time, this as a
9 separate people, we've got to identify our own citizens.
10 But this thing of setting up -- I've had people say,
11 well, why don't we set up some commission that would be
12 proposed to the Council, the historical documents which
13 would be acceptable and let people apply under that?

14 MR. WELCH: I don't know, Charlie.

15 MR. GOURD: Years ago I was working
16 with Suzanne Harjo, and we were raticals then and are
17 now. We tried to get a bill through the Federal
18 Congress, and called it Psuedo Indian Fraud Bill and make
19 it a Federal felony of fraud if you said you were Indian
20 without reference to and received any benefits.

21 MR. WELCH: I forgot that you were a
22 part of that.

23 MR. GOURD: We had fun with that one.

24 MR. WELCH: Well, that just
25 demonstrates the fact that there are other people in the

1 Cherokee Nation who are ratical as I. I don't feel
2 nearly as lonesome as I did a moment ago.

3 AUDIENCE MEMBER: Excuse me, but I
4 have an experience that I went through when I was working
5 at the Indian Hospital up here at Claremore. This lady
6 come up to me -- I was on the switchboard. She comes up
7 to me and she says, "I want an Indian card." I said,
8 "Ma'am, we don't issue Indian cards here." "Oh, yes, you
9 do because my dad got one here." I said, "I'm sorry, we
10 don't do that. You'll have to to go to a different
11 place." "No, I want an Indian card."

12 "Okay. What tribe"? She thought awhile and
13 she said, "Cherokee will be all right, I guess." And I
14 said, "Ma'am, we don't choose what we want to be. We are
15 already what we were, so if you want to apply for a
16 Cherokee CDIB card, you'll have to go to Tahlequah.
17 Creek, you have to go elsewhere. Chickasaw, elsewhere."
18 "Well, I was just sure I would get a card here." And I
19 said, "I'm sorry. We don't issue cards here."

20 But this is the way we're going to let people
21 say, "Well, Cherokee will be fine. I'll be a Cherokee."
22 So I had a good notion to tell her, (Cherokee dialogue);
23 "What is it you want," in Cherokee. That would have
24 confused her.

25 MR. WELCH: Those things that we

1 discussed here this morning, many of them are things that
2 need to be -- that we need to take stock of, that we need
3 to make some changes one way or the other.

4 Some of the things that we mentioned are very
5 obviously things that we can do nothing about. We would
6 have to go to the Congress, of course, to get some of
7 these things changed. They're going to say, well, the
8 law says, and that's how it is, and that's, you know,
9 that's as far as it would go.

10 But we were talking about elections a moment
11 ago, and Paul brought up something that I thought was
12 most appropriate. And I'm going to recount a story, and
13 then I'm going to quit.

14 I wanted to tell you the other day that I got
15 clumsy, and since I'm past seventy-two years old, I'm not
16 going to apologize for it. But I attempted to move a
17 log, and instead I tripped and fell across the silly
18 thing. While I didn't break any ribs, I separated some,
19 so I'm a little uncomfortable here.

20 But to give this committee some idea of what
21 has occurred in past elections, let me tell you that this
22 did occur, and there was a Federal lawsuit filed about it
23 concerning that matter. It did not get heard, of course,
24 but it was.

25 I ran for Chief one time. The difference in

1 votes was two hundred and forty-two votes between the
2 winner and myself. There were ten other people who ran.
3 That's not true; nine other people. There were eleven of
4 us. We cited fraud, and we went to District Court. We
5 got the thing tossed out in our lap.

6 They did not have jurisdiction. They said we
7 would have to go through Tribal Courts. What Tribal
8 Courts in 1972? There wasn't any. When we began a small
9 investigation on our own, with the help of a high ranking
10 official of the Postal Department, we found out that
11 sixty-five percent of those people voting by absentee
12 ballot did not exist. This is a documented fact. It was
13 in the petition that we filed in Federal Court.
14 Sixty-five percent of the people who voted in the
15 election did not exist.

16 Now then, this goes back to the fact that we
17 have people in California and Texas and Oregon, wherever
18 they might be -- who was it that said, "We're just like
19 beer cans; you find us all up and down the road."

20 But these things should be changed, and they
21 should be. And we have an opportunity now with this
22 committee. Good, thinking, honest people who want to do
23 the proper thing for the Cherokee Nation, not anyone in
24 it, but for the Cherokee Nation as a whole, have the
25 opportunity to change these things. And that's the

1 reasons for me talking as long as I have this morning.

2 Ladies and gentlemen, I thank you. Appreciate
3 it much.

4 MR. MAYES: Would it be all right if
5 I asked Mr. Welch a question?

6 MR. UNDERWOOD: Sure.

7 MR. MAYES: I would like to know, you
8 have referred to the development of the '75 Constitution
9 and that you were a party to the convention at that time.

10 MR. WELCH: Yes.

11 MR. MAYES: And that the document
12 that was presented and sent to Washington did not return.
13 I was wondering if you could tell me, does that original
14 document still exist and where I might be able to --

15 MR. WELCH: Where you might be able
16 to find one? You might talk to me and get me to supply
17 you one. All I would have to do is go ask my wife where
18 it is. I don't know where it is.

19 I thought it was a most unusual document. I
20 thought it was a historic document. I think it has
21 historical value today and will have increased historical
22 value as time progresses, that there will be my
23 children's grandchildren who will say, "My grandfather
24 served on a Constitutional Convention Committee, and here
25 is the copy that they wrote, and let's compare it with

1 what was in force after that." I think that would be --
2 I think that would be a novel idea.

3 But someplace around the house I've got the
4 thing. I can tell you almost everyone who was on the
5 committee. We drove thousands of hours, spent untold
6 hours driving at night and on weekends and times that we
7 spent in committee. And we would go for six or seven
8 weeks, two months, maybe, and we would meet twice a week,
9 and then we would all meet together and more or less
10 revise and commit what we had determined was a good idea
11 during those times.

12 There's a lawyer in Tulsa and he -- golly, a
13 Delaware. Bruce Townsend shared the committee that I was
14 on. I haven't seen Bruce or heard from him for years.
15 Is he still alive?

16 MR. GOURD: Yes.

17 MR. WELCH: I'm trying to remember
18 some of the other people in there. We had spirited,
19 really spirited discussions of ideas of how to go about
20 doing these things. Some of the things were very
21 obvious. They had to be changed.

22 They established polling places in that early
23 thing and, of course, that had to be changed. You
24 couldn't use those things. Those things no longer
25 existed. But the ideas behind a lot of that stuff were

1 still, simple, good ideas that you should incorporate
2 into a modern document, and they still should be
3 incorporated into a modern document.

4 Those people who put that thing together were
5 not idiots. They had some good ideas. Really fine
6 ideas. They attempted -- I viewed the original
7 Constitution as something that was written to protect
8 people. Not just one group of people, but protect the
9 people of the Cherokee Nation.

10 MR. GOURD: One thing that just in
11 our general discussions, and it came up at different
12 points in time, since you were on that committee -- and
13 I've talked with Leo Fishinghawk and some of the others
14 Thursday night even -- would you be willing to attend at
15 some point in time, either a formal or informal meeting
16 with this Commission so that we could go through this '75
17 Constitution and ask the pertinent question, what was the
18 intent of the framers, the people who wrote it, which
19 would be an advantage over Supreme Court and others right
20 now attempting to interpret the intent of the framers of
21 the U.S. Constitution? All they've got to do is kind of
22 guess at it.

23 MR. WELCH: Charlie, I'm going to
24 have to tell you, that's a wonderful idea, and I would
25 certainly be happy to go about doing that, no question

1 about it. But I'm going to tell you that it's not a
2 valid thought in that so many of those things, we didn't
3 have anything to do with. We had no intent of those
4 things that were written into that Constitution.

5 MR. GOURD: That's a big part of my
6 question.

7 MR. WELCH: We did not say anything
8 about that. Some of those things, some of that language
9 is lifted out of State law, you know what it is, and put
10 in there as an after-thought, trying for a little bit of
11 explanation. And the Senior Senator from the
12 southeastern part of the state is most adept at doing
13 that. He's a fair country hand, let me assure you.

14 But that's where it came from, and you and I
15 both know that's where it came from. That's where the
16 language came from. And we know how it got into his
17 office to get that language in there. What can I say?

18 Those things that we had in there about --
19 good gracious, we were naive in so many ways. We were
20 terribly naive. And Bruce Townsend is an intelligent
21 man, and while Bruce and I disagree whole-heartedly about
22 a number of things, he's a man that you can talk to and
23 listen to and come to a conclusion that is reasonable and
24 proper.

25 The idea being that two reasonable men can

1 reach a reasonable answer if they'll be reasonable in
2 their discussion. And I thought that's what we were
3 doing, and I thought that's what other people were doing
4 in those meetings. Reasonable men with dyametrically
5 opposed ideas who discussed the problem reasonably and
6 came to a reasonable conclusion and something that could
7 be reasonable to go into a document.

8 MR. UNDERWOOD: Thank you, Butler.

9

10 (PROCEEDINGS CONCLUDED)

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1 STATE OF OKLAHOMA)
) ss
2 COUNTY OF MUSKOGEE)

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4 I, Marla J. Cullison, a Certified
5 Shorthand Reporter, in and for the State of Oklahoma, DO
6 HEREBY CERTIFY that the said Transcript of Proceedings
7 was taken by me in stenograph on the 21st day of
8 November, 1998, and that the foregoing Proceedings was
9 later reduced to computer-aided transcription form under
10 my supervision, and that the same is a full, true,
11 correct, and complete transcript of said Proceedings.

12 I FURTHER CERTIFY, that I am not an
13 attorney for, nor relative of any of the parties involved
14 in this action.

15 WITNESS MY HAND AND SEAL this day
16 of December, 1998.

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