

# ARTICLE IX [AMENDMENT OF CONSTITUTION]

## Section

1. [Amendment procedure].
2. Repealed.

*Section headings are editorially supplied.*

## Cross References

Constitution Amendment Committee, see Title 19, §§ 11–101 et seq.

## § 1. [Amendment procedure]

(a) This Constitution shall be amended by:

(1) Passage of an amendment ordinance before The Muscogee (Creek) National Council, which shall require affirmative vote of two-thirds (2/3) of the full membership of the National Council for approval.

(2) A two-thirds (2/3) affirmative vote of the eligible voters who vote in special election called for said purpose by the Principal Chief pursuant to the rules and regulations that The Muscogee Creek National Council shall prescribe.

(b) It shall be the duty of the Principal Chief to set such an election date at the request of a majority of The Muscogee (Creek) National Council within thirty (30) calendar days.

## Library References

Indians ⇄214.  
Westlaw Topic No. 209.  
C.J.S. Indians § 59.

## Notes of Decisions

### Construction and application 1

#### 1. Construction and application

[T]he Court finds Petitioner’s Application is not ripe for appellate review and that the Court will not exercise original jurisdiction in this case. The Court notes that this action would have been more properly brought before the District Court, where a Special Judge would be appointed to hear it. Muscogee (Creek) Nation National Council and Trepp v. Muscogee (Creek) Election Board, A.D. Ellis and Muscogee (Creek) Constitutional Convention Commission, SC 09–10 (Muscogee (Creek) 2009)

The Court finds the original formula of one (1) representative per district plus one (1) representative for each 1500 citizens must yield to the Constitutional Amendment that set the maximum number of seats at 26. *Harjo v. Muscogee (Creek) Nation Election Board*, SC 07–50 (Muscogee (Creek) 2007)

There are defined procedures in place to amend our Constitution if there are deemed to be inadequacies with the delineated responsibilities of the differing branches. *Ellis v. Muscogee (Creek) Nation National Council, “Ellis II”*, SC 06–07 (Muscogee (Creek) 2007).

The roles of the different branches are clearly defined both in the Constitution of the Nation and in its laws. . . there are proper procedures in place to amend the Constitution of this Nation, and those procedures should not be assumed by a document proposing to be an Agreed Journal Entry in a lawsuit litigated between Principal Chief and the National Council. *Ellis v. Muscogee (Creek) Nation National Council, “Ellis II”*, SC 06–07 (Muscogee (Creek) 2007).

[A]s members of the Constitutional Convention Commission the four unchallenged commissioners are integral parts of the whole Commission, which is also a party to this action. Importantly, it is clear to this Court that the

## AMENDMENT OF CONSTITUTION

## Art. IX, § 2 Repealed

four unchallenged members of the Commission, if allowed by this Court to go forward, would not constitute a quorum to carry out the business of the Commission. Moreover, the language of the enabling amendment does not specify a date certain for completion, and the Court therefore finds there is not a constitution-

al mandate to complete the work of the Commission by the end of February, 2007, and that the Agreed Temporary Restraining Order in this case protects the parties. *Begley v. The Constitutional Commission*, SC 06-06 (Muscogee Creek) 2006)

## § 2. [Repealed by 2009, Amendment 105 [A105], eff. Nov. 7, 2009]

### Historical and Statutory Notes

The repeal of this section, which related to a constitutional convention, was passed by referendum on Nov. 7, 2009, by a vote of 1,350 to 998. The section was derived from:

NCA 2002-153.

NCA 05-195.

NCA 05-106.