

**Wisconsin Historical Society Responses to
Five Proposals Submitted by Representative Brooks
December 8, 2016**

Wisconsin Historical Society response to Proposal 1 requires that the Director notify all interested persons in addition to land owners throughout the Cataloguing process and throughout the process of contesting the cataloguing of a burial site.

Currently, the decision to catalog a burial site or to remove a burial site from the catalog is between the landowner and the Director. This proposal invests owners' rights in all Registry members. It permits any person admitted to the interested person Registry to contradict a landowner's desire and approval to catalog a burial site. This proposal allows any interested person to request a hearing demanding proof of burial or to appeal a decision contrary to the wishes of the owner.

We do not support this proposal.

Proposal 2 proposes an "expedited process" to respond to inadvertent discoveries. This proposal does not expedite the process, but rather extends it.

- The proposal requires the Director to notify the owner, the Burial Board, and interested person, which takes time.
- The Burial Board would conduct a hearing within 15 days of the Director's notice to determine whether the project should proceed.
- The Director would no longer be able to provide a quick resolution of a need.

We do not support this proposal.

Proposal 3 resets the Statute of Limitations for any owner or any interested party who wishes to contest the cataloguing of any burial site and, at the request of anyone on the interested party Register, to conduct a redundant recataloguing of any site regardless of whether an owner knowingly purchased the cataloged site, agreed with the cataloguing action, or took advantage of state property tax exemptions for that cataloged site.

Note that the current draft legislation creates a process by which additional proof and evidence of prior error may be submitted to demonstrate that a site ought not to have been cataloged; we support that opportunity for all landowners.

We do not support this proposal.

Proposal 4 provides an opportunity for an owner or interested Registry member to require that the Director "test" a burial site (at the owner's expense) for the presence of human remains.

Through testimony and written evidence brought before the committee, it has been made clear that no testing process short of destructive excavation is sufficient to conclusively prove that human remains are located in a burial site. This provision demands the desecration/destruction of a burial site to prove it is a burial site. Draft legislation already provides criteria necessary for cataloguing a site.

We oppose this proposal.

Proposal 5 purports to allow Registry members to appeal decisions to remove land from the catalog. We support the creation of a process by which the owner may appeal such a decision.

We note that currently, State law allows parties to appeal Burial Board decisions into circuit court pursuant to provisions of Wisconsin Statutes Chapter 227.