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Tennessee: Paging Noah Webster *Chattanooga's strange linguistic problem with the recall* By JOSHUA SPIVAK

Chattanooga's mayoral recall has taken a turn into a joint constitutional crisis and linguistic nightmare, as the election commission, City Council and (eventually) the courts will have to grapple with an almost unheard of problem — what does a “recall” mean?

The issue is that a section of the city's charter holds that in case the mayor is unable to serve for a host of reasons, the chair of the council becomes interim mayor. One of the reasons cited is simply “recall.” The council, commission and others are debating whether the phrase recall means removed from office after a retention or new election vote or ordered to face a new election or retention vote due to petitioners gathering enough signatures to get a recall on the ballot.

Apparently, there is a lot of support for the second position, which would mean that Mayor Ron Littlefield would be immediately ejected from office, and would not be able to regain his job until the election scheduled in August.

I've never seen any state or municipality have a recall law that ejects people based solely on handing in petitions. Perhaps it exists, but it seems like an unprecedented, and potentially dangerous, interpretation.

The problem of what the word recall means is one I re-discover with every time I explain the history and use of the recall (Talking Points Memo discussed this same issue once, but I can't find the link). The term recall appears to mean two separate things at the same time. In one sense, it encompasses just the act of qualifying the removal vote. But it also means that the elected official is kicked out of office (the official is said to be “recalled”). To avoid this problem, I use the clumsy terms “recalled and removed” and “recalled and sustained.” Otherwise, it is hard to explain how, for example, 32 state legislators were recalled, but 17 lost their jobs.

A quick glance at other states suggests some of this problem, though in the end, I would say they don't use the word recall to mean just getting it on the ballot. For example, the California Constitution cites the word “recalled” to mean removed. Wisconsin specifically divides the words into “recall petition” and “recall election.” And here's Michigan talking about a vacancy due to a recall.

In a sense, the word recall has the same linguistic usage problem as “impeached.” Impeached has occasionally taken on the meaning of “removed by the legislature” (see this example). However, to be removed by an impeachment is actually referred to as “impeached and convicted.” Since the Clinton impeachment, this has been less of a problem, but it is still a not-infrequent mistake.

Regardless of this problematic drafting of the charter, it's hard to believe that the council, commission and others would get caught up in that linguistic debate, and overlook the logic of how recalls operate. The recall (ignoring the debate on meaning) acts as a petition by a small group of citizens to call on the entire citizenry to revote on whether someone should continue to stay in office. This revote takes place either by holding a new early election between candidates

(as in Arizona or Wisconsin) or by having a vote on the “yes or no” question of whether they should keep their job, and then decide a replacement in a separate election, either on the same day (California) or a later date (Michigan).

The petitions are intentionally not signed by a majority of the citizenry (Chattanooga’s 50 percent of voter turnout is actually a very high standard, states usually have something on the order of 25 percent of turnout). In fact, it is specifically a minority, in some cases, a very small minority (Miami-Dade only requires 4 percent), who can trigger the recall. Therefore, having an official removed by the simple act of handing in petitions would give a small minority of voters a surprisingly strong power to act and eject elected officials, even if only temporarily. In the case of Chattanooga, it could swing a critical vote of the City Council or get a law signed in (instead of vetoed) simply by gathering enough signatures to temporarily toss out an official.

The recall was adopted with the express purpose increasing majority control over elected officials. There are valid criticisms of this purpose, but this is clearly the goal. The Chattanooga interpretation of the recall would actually completely subvert this purpose and give a small minority of voters an uncheckable (albeit temporary) control over elected officials.

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