

Draft of Choctaw Constitution of 1834

We the people of the Choctaw Nation, having right by Treaty stipulation to establish our own government not inconsistent with the Constitution, Treaties & Laws of the United States, by our representatives assembled in convention near Turnbull's Stand on the Kiamichi river on Friday the third day of June, in the year of our Lord One Thousand Eight Hundred and Thirty-Four, in pursuance to the fourth Article of our Treaty made and concluded with the United States of America at Dancing Rabbit Creek on the twenty-seventh of September the year One Thousand Eight Hundred and Thirty, in order to establish justice, insure tranquility, promote the general welfare and secure to ourselves and our posterity the rights of life liberty and property, we mutually agree with each other, to form for ourselves a free and independent government and do hereby recognize the boundaries assigned said Choctaw Nation by the Second Article of the Treaty made at Dancing Rabbit Creek, viz: Beginning near Fort Smith where the Arkansas boundary crosses the Arkansas River; Running thence to the source of the Canadian Fork, if in the limits of United States, or to those limits. Thence due south to the Red River; thence down the Red River to the western boundary of the territory of Arkansas; thence north along the boundary of Arkansas to the beginning, the boundary of the same, to be agreeable to the Treaty made and concluded at Washington City in the year 1825.

Article 1 Declaration of Rights

Section 1. All free men, when they form a social compact, are equal in rights, and that no man or set of men are entitled to exclusive, separate public emoluments or privileges, but in consideration of public service.

Section 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. And therefore they have at all times an unalienable and indefeasible right to alter, reform or abolish their form of government in such a manner as they think expedient.

Section 3. There shall be no establishment of religion by law; no preference shall ever be given by law to any religion, sect, society, denomination or mode of worship, and no religious test shall ever be required as a qualification to any public trust under this government.

Section 4. No human authority ought in any case whatever to control or interfere with the rights of conscience.

Section 5. No person shall for the same offence be twice put in jeopardy of life or limb; nor shall any person's property be taken or applied to public use unless just compensation be made therefore.

Section 6. No title of nobility, or hereditary distinction, privileges, honor or emoluments shall ever be granted or conferred under this government; nor shall any office be created, the appointment of which shall be for a longer time than during good behavior.

Section 7. The right of trial by jury shall remain inviolate.

Section 8. Every citizen has a right to bear arms in defense of himself and his country.

Section 9. We do declare that there shall be no alteration made to this Constitution until the

year One Thousand Eight Hundred and Thirty Eight and that any laws which may be passed or adopted contrary to the provisions of this Constitution shall be null and void.

Article 2 **Distribution of Powers**

Section 1. The powers of Government of the Choctaw Nation shall be divided into three distinct departments and each of them confided to a separate body of magistracy, viz. Those which are Legislative to one, those which are Executive to another, and those which are Judicial to another.

Section 2. No person or collection of persons, being one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted by the General Council.

Article 3 **Legislative Department**

Section 1. Legislative power of this Nation shall be vested in General Council and the style of their laws shall be; Be it enacted by the General Council of the Choctaw Nation, assembled.

Section 2. The General Council of the Choctaw Nation shall be composed of the representatives from each district and that two-thirds from the whole number together with any two of the District Chiefs or their representatives shall be deemed sufficient to compose the Council.

Section 3. In the case of the death, resignation, or inability of any of the Representatives from the several districts, the District Chief or his representative shall have the power to make temporary appointment until the next election.

Section 4. The Representative from the several districts shall be chosen every year on the first in July and the day following unless otherwise directed by law.

Section 5. No person shall be a Representative unless he be a Choctaw, and who shall not have attained to the age of twenty one years, and who shall not when elected be an inhabitant of that district in which he shall be chosen; provided no part Negro shall be deemed qualified to the office of Representative.

Section 6. The Representatives to the General Council shall receive for their services twelve dollars and a half each per session, unless otherwise directed by law and such compensation as shall be directed by the General Council.

Section 7. Every Choctaw male person of the age of sixteen years and upwards, who shall be a citizen of the Choctaw Nation, shall be deemed a qualified elector, and shall have resided in the district at least one month previous to his voting; and all white men having Choctaw families who shall have resided in the Nation twelve months shall also be deemed qualified electors.

Section 8. In all election by the people the electors shall vote in the following manner; viz.: the light horse captain or any one of them shall proclaim to the candidates or their representatives together with the voters to form themselves into separate lines, the voter forming in a line with such candidates as they wish to elect. And there shall be two or more judges appointed by the people at the election who shall determine the numbers of voters

in each line and their qualification and one of said judges shall publicly state the number of voters of each candidate and proclaim the person having the highest number elected. This method of election shall remain until otherwise directed by law.

Section 9. The General Council when assembled shall choose a Speaker, and its other officers and when a majority of a General Council is assembled, it shall constitute a quorum to do business.

Section 10. The General Council may determine the rules of its own proceeding and punish members or other persons for disorderly behavior and shall keep a journal of its proceeding and cause a true copy to be sent to each district.

Section 11. The General Council shall assemble once at least once in every year, and such meeting shall be near Turnbull's Stand on Jacks Fork of Kiamichi River, where the military road leading from Fort Smith to Horse Prairie crosses that stream, on the first Monday in October until otherwise directed by law.

Article 4 **Executive Department**

Section 1. The Supreme Executive Power of this Nation shall be vested in three District Chiefs; any two of them shall be deemed sufficient to exercise the duties of the Executive at the General Council.

Section 2. The Chief of each District shall hold his office for the term of four years from the time of his installation, until his successor shall be duly elected, but shall not be eligible for more than eight years at any one time. He shall be at least thirty years of age, and shall be a Choctaw, and shall have resided at least twelve months in the District in which he shall be chosen; provided that no person who is any part Negro shall be deemed eligible to hold the office of Chief or Representative.

Section 3. Each District Chief shall be elected by the Treaty Captains in their respective districts at the first election, after which they shall be elected by the qualified electors; but in case of death resignation or removal from office, the Representatives at the General Council shall order an election to take place by the qualified electors on the first Monday in July following.

Section 4. Each chief shall from time to time give the General Council information respecting the affairs in his own district and recommend to their consideration such measures as they think expedient; and they shall take care that their laws be faithfully executed in their respective districts.

Section 5. Every bill which shall have passed the General Council shall be presented to the three Chiefs or any two of them or their representatives; if they approve, they shall sign it and it shall become a law; if not they return it General Council with their objections. The General Council shall then reconsider it and, if repassed by two thirds of the Representatives, it shall become a law as if the Chiefs had signed it.

Section 6. Each Chief shall have the power to appoint his own Speaker and District Secretary.

Section 7. The three districts of the Choctaw Nation shall be known by the following names, viz: Moshulatubbee district, Pushmataha district and Oklafalayah district.

Section 8. The election for Chief and other officers in the several districts shall take place at

the following places, viz: that of Moshulatubbee at or near the Choctaw Agency; that of Pushmataha district at Okachukma; and that of Oklafalayah district at or near Capt. Tobalanchubbees on the waters of Little River. This shall remain until otherwise directed by law.

Section 9. During the vacancy of any of the three District Chiefs his Speaker shall exercise the duties of the Chief until the next election.

Article 5 Judicial Department

Section 1. The Judicial Power of this Nation shall consist of three or more called Courts in each district, and the Judges of said Courts shall be composed of three persons who shall receive their appointments from the District Chief and shall hold their office during good behavior.

Section 2. All trials shall be by jury composed of twelve disinterested persons and in case of life and death there shall be called twenty-four jurors to try such case or cases and two thirds of them deciding. Their decision shall be final.

Article 6 District Boundaries

Section 1. We do ordain and establish the following boundaries of the three districts, viz. Mosholatubbee District, Pushmataha District, and Oklafalayah district. The boundary line of Mosholatubbee district shall commence as follows, to wit: beginning near Fort Smith where the Arkansas boundary crosses the Arkansas River; thence along said River to the Canadian fork; thence along said Canadian to its source if in the limits of the United States; thence due south to the dividing ridge between the Canadian and Red Rivers; then easterly along said dividing ridge to the western boundary of the Territory of Arkansas, thence north along said Arkansas line to the beginning.

Section 2. The boundary line of Pushmataha district shall commence as follows, to wit: beginning on the Red River at the mouth of the Kiamichi; thence running up the Kiamichi to Jacks Fork; thence up South Jacks Fork to the Military Road, leading from Fort Smith to Horse Prairie; thence along said Military Road to the Boundary line of Moshulatubbee District on the top of the dividing ridge between the Arkansas and Red Rivers, thence westward along said District Boundary to a line running due south from the source of the Canadian to Red River; thence south to said River; thence down the Red River to the beginning.

Section 3. The boundary line of Oklafalayah District shall commence as follows, to wit: beginning on Red River where the Boundary line of Arkansas Territory strikes that River; thence up said River to the mouth of Kiamichi; then up said Kiamichi to the Jacks Forks river, thence up said Jacks Fork to the Military Road leading from Fort Smith to Horse Prairies; thence along said Military Road to the boundary line of Mosholatubbee District on top of the dividing ridge between the Arkansas and Red Rivers; thence easterly along said district Boundary to the west boundary of the Territory of Arkansas; thence south along said boundary of the Territory of the Arkansas to the beginning.

Article 7 Impeachment

Section 1. The General Council shall have the sole power of impeaching.

Section 2. All impeachments shall be tried by the General Council; no person shall be convicted without the concurrence of two thirds of the members present. The Chiefs and all other civil officers shall be liable to impeachment for any misdemeanors in office. But judgment in such cases shall not extend further than removal from office.

Article 8 General Provisions

Section 1. The Choctaw Nation shall not hereafter be responsible for any individual debt or debts and no money shall be drawn from the annuity to be applied to any purpose unless appropriated by the General Council.

Section 2. The citizens of one district shall be entitled to all the privileges and immunities of the citizens in the several districts.

Section 3. All just debts, that may have been contracted by citizens of this Nation previous to the adoption of this Constitution shall remain in full force and virtue against them.

Section 4. A person charged in any district with felony or other crime, who shall flee from justice, and be found in another district, shall, on demand of the Chief of the district from which he fled, be delivered up by the Chief of the district in which he may be found, to be removed to the district having jurisdiction of the crime.

Section 5. The General Council shall have the power to pass such laws and measures as they shall deem expedient for the general good of the Nation; provided no law shall be passed or adopted contrary to the provisions of this Constitution.

Section 6. From and after the adoption of this Constitution, no free Negro or any part Negro, unconnected with Choctaw blood, shall be permitted to come and settle in the Choctaw Nation.

Section 7. No white men or men with white families, not permitted by the agent for public purposes, will be allowed to settle in the Nation, unless with a written permit from the General Council, and not then unless he bring a satisfactory proof of his good character, industry, and sobriety.

Section 8. From and after the first Monday in July, 1835, there shall be established six lighthorsemen in each district, to be elected every two years by the qualified electors in their respective districts, and shall be subject to the control and to the orders of the District Chiefs.

Section 9. When offenders against the laws of this Nation are arraigned for trial, they shall be at liberty to employ Council to defend them that their trial may be fair and impartial.