

CONSTITUTION OF THE CHOCTAW NATION

October 14, 1850

PREAMBLE

We, the representatives of the Choctaw Nation, having the right to establish our own form of Government, not inconsistent with the Constitution, Treaties and Laws of the United States, by our own Representatives assembled in Convention at Nanihwaiya, on Monday the 14th of October 1850.

In order to establish justice, insure tranquility, promote the general welfare and secure to ourselves and our posterity the right of life, liberty and property, we mutually agree with each other, to form for ourselves, a free and independent Government and we do hereby recognize the boundaries assigned the Choctaw Nation, by the second article of the treaty made and concluded with the United States of America, at Dancing Rabbit Creek, on the 27th of September, 1830, viz: Beginning near Fort Smith where the Arkansas boundary Crosses the Arkansas River, running thence to the source of the Canadian, if in the limits of the United States, or to those limits; thence due south to Red River, thence down Red River to the Western boundary of the State of Arkansas, thence North along the line to the beginning; the boundary of the same to be agreeable to the treaty made and concluded at Washington City in the year 1825.

DISTRICT BOUNDARIES

For the convenience and good government of the people of the Choctaw Nation, we do make, ordain and establish four districts in this Nation, to be known by the following names and boundaries, viz: Mosholatubbee District, Pushmataha District, Chickasaw District and Apukshanubee District.

This boundary line of Mosholatubbee District shall begin near Fort Smith, where the Arkansas boundary crosses the Arkansas River, thence up said river to the Canadian Fork, to where the Chickasaw District boundary strikes the same, thence along the said Chickasaw District boundary to where it strikes the Dividing Ridge between the Canadian and Red Rivers, thence eastwardly along said Dividing Ridge to the Western boundary of the State of Arkansas, thence along said Arkansas line the beginning.

The boundary of Apukshanubee district shall begin on Red River, where the Arkansas State line strikes the same, running thence up said river to the mouth of Kiamishi, thence up said river to Jack's Fork, thence up said Jack's Fork to the military road leading from Fort Smith to Horse Prairie, thence along said military road to the boundary line of Mosholatubbee District on the top of the Dividing Ridge between the Arkansas and Red rivers, thence eastwardly along said District boundary to the western boundary of the State of Arkansas to the beginning.

The boundary of Pushmataha District shall begin on Red River at the mouth of Kiamishi, thence running up said Red River to the mouth of Island Bayou to where the Chickasaw District boundary strikes said river, agreeably to the provisions of the Treaty made and concluded between the Choctaws and Chickasaws at Doaksville, in the year 1837.

Thence along said Chickasaw District boundary line to the Dividing Ridge between the Canadian and Red Rivers, thence Eastwardly along the line of Mosholatubbee on the top of the Dividing Ridge, to where the District line of Apukshanubbee District intersects Mosholatubbee District, thence south along said Apukshanubbee District line to the beginning.

The boundaries of Chickasaw District shall be bounded as follows, viz: Beginning on the north bank of Red River at the mouth of Island Bayou about eight or ten miles below the mouth of False Washita, thence running north along the main channel of said bayou to its source, along the Dividing Ridge to the road leading from Fort Gibson to Fort Washita, thence along said road to the line dividing Mosholatubbee and Pushmataha District, thence eastwardly along said district line to the source of Brushy Creek, thence down said creek to where it flows into the Canadian, thence west along said Canadian River to its source, if in the limits of the United States, and thence due South to Red River and down Red River to the beginning.

The General Council shall have the power by law to subdivide the several districts of this Nation into as many counties as may be deemed necessary for the convenience of holding County Courts, Elections, and for other purposes.

ARTICLE II.

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 emolument or privileges, but in consideration of public services.

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 may have, at all times, an inalienable and indefeasible right to alter, reform or abolish their form of Government in such a manner as they may think expedient.

SECTION 3. There shall be no establishment of religion by law. No preference shall ever be given by law to any religious sect, society, denomination or mode of worship and no religions test shall ever be allowed 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 limbs, 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 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. That the printing press shall be free to every person, and no law shall ever be made restrain the rights thereof. The free communication of opinion is one of the inviolable rights of man and every citizen may freely speak, write and print on any subject being responsible for abuse of that liberty.

SECTION 10. That the people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures. And that general warrants whereby any officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named whose offences are not particularly described, and supported by evidence, are dangerous to liberty, and shall not be granted. But in all cases where suspicion rests on any person, or persons of conniving or secreting whiskey or other intoxicating liquors, the same shall be liable to search or seizure as may be hereafter provided by law.

SECTION 11. That no freemen shall be taken or imprisoned, or disseized of his free hold liberties or privilege, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty and property, but by the judgment of his peers or the law of the land.

SECTION 12. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel, to demand the nature and causes of the accusation against him, and have a copy thereof to meet witness face to face, to have a compulsory for obtaining witnesses in his favor. And in all prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county or district in which the crime shall have been committed, shall not be compelled to give evidence against himself.

SECTION 13. That all penalties shall be reasonable and proportioned to the nature of the offence.

SECTION 14. That the citizens have a right in a peaceable manner to assemble together for the common good to instruct their Representatives and apply to those invested with

the powers of the Government, for a redress of grievances, or other proper purposes by address or remonstrance.

SECTION 15. There shall be no retrospective law, or any law passed under this Constitution, impairing the obligations of contracts.

ARTICLE III.

DISTRIBUTION OF POWER.

SECTION 1. The powers of Government of the Choctaw Nation shall be divided into three district departments, and each of them confined 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 papers, being of one of those departments shall exercise any power properly belonging to either of the others except in instances hereafter expressly directed or permitted by the General Council.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this Nation shall be vested in a General Council, which shall consist of a Senate and House of Representatives, and the style of their laws shall be: "Be it enacted by the General Council of the Choctaw Nation assembled."

SECTION 2. The Senate of the Choctaw Nation shall be composed of four Senators from each District, chosen by the qualified electors for the term of two years.

SECTION 3. No person shall be Senator, who shall not have attained to the age of thirty years, and been one year a citizen of this Nation, and who shall not, when elected, be an inhabitant of that district from which he shall be chosen.

SECTION 4. No person shall be a Senator unless he be an acknowledged citizen of this Nation.

SECTION 5. The Senate shall choose a President from its own body, who shall have no vote unless they be equally divided.

SECTION 6. The Senate shall choose its other officers.

SECTION 7. The General Council shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation to do justice according to law and evidence, and no person shall be convicted without the concurrence of two thirds of both branches of the General Council.

SECTION 8. Judgment in cases of impeachment shall not extend further than removal from office; but the parties charged with any crime, shall nevertheless, before or after impeachment, be liable to indictment, trial, judgment and punishment according to law; and when charges for impeachment be preferred, the person or persons so charged shall be duly notified by the light-horsemen, by order of the Chief or Judge, to attend the General Council and be heard by himself and council, that his trial may be fair and impartial.

SECTION 9. The House of Representatives shall be composed of members chosen every year by the qualified electors in the several Districts at the ratio of 1 Representative to every one thousand citizens, nevertheless, when there is a fractional, number of five hundred or more citizens in any District, they shall be entitled to one additional Representative. No person shall be a Representative unless he be an acknowledged citizen of the Choctaw Nation, or who shall not have attained the age of twenty-one years, or who shall not, when elected, be an inhabitant of that District in which he shall be chosen.

SECTION 10. In the case of death, resignation or inability of any of the Senators or Representatives from the several Districts, the executive shall have the power to make temporary appointments until the next election.

SECTION 11. Each House shall be the judge of the election returns and qualifications of its own members, and a majority of each House shall constitute a quorum to do business.

SECTION 12. Bills may originate in either House and be amended, altered or rejected by the other, and every bill shall be read on three different days in each House, unless two-thirds of the House, when the same is pending, shall dispense with the rules, but no bill shall have the force of a law, until it shall have been passed by a majority of both branches of the General Council, and every bill having passed both branches of the General Council shall be signed by the Speaker and President of their respective bodies.

SECTION 13. Every bill which shall have passed the General Council shall be presented to the Chiefs or their Speaker; if they approve it, they shall sign it and it shall become law; if not, they shall return it to the branch in which it originated, with their objections. The General Council shall the reconsider it, and if repassed by two-thirds of both branches it shall become a law as if the Chiefs had signed it.

SECTION 14. The House of Representatives, when assembled, shall choose a Speaker and its other officers, and when a majority of the members are assembled, it shall constitute a quorum to do business.

SECTION 15. The General Council may determine the rules of its own proceedings, and punish a member or other persons for disorderly conduct or behavior, and shall keep a journal of its proceedings, and cause a true copy of the same to be sent to each district.

SECTION 16. The General Council of the Choctaw Nation shall assemble at least once in every year, and such meeting shall be at Doaksville, on the first Wednesday in November, until altered by law. Nevertheless, the meeting of the General Council of 1850 shall be at Nanihwaiya.

SECTION 17. The yeas and nays of the members of the General Council, on any question shall, on the request of any three members present be entered on the journal.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The Supreme power of the Choctaw Nation shall be vested in four District Chiefs, and any two of them shall be deemed sufficient to exercise the duties of the Executive at the General Council.

SECTION 2. The Chiefs and their Speakers shall be elected [by] the qualified electors within their respective districts, on the first Wednesday in August 1854. And in case of death, resignation, removal or ability of any of the Chiefs of the Nation, his Speaker shall exercise the duties of the Executive until a Chief shall be chosen at the next regular election, which Chief when elected, shall only serve out the remaining term.

SECTION 3. The present district Chiefs and their Speakers, shall remain in office and exercise the duties of their respective offices, until their successors shall be duly sworn into office at the annual meeting of the General Council, in 1854.

SECTION 4. The Chiefs and their Speakers shall hold their offices for the term of four years from the time of their installment, until their successors shall be duly qualified, but they shall not be eligible for the same office for more than two terms in succession.

SECTION 5. No person except a free and acknowledged citizen of the Choctaw Nation shall be eligible to the office of Chief or Speaker; neither shall any person be eligible to either of those offices, who shall not have attained to the age of thirty years and been an inhabitant of the Choctaw Nation at least one year.

SECTION 6. The Chiefs shall, from time to time, give to the General Council, information of the state of the Government, and recommend to their consideration such measures as they shall deem expedient.

SECTION 7. They shall take care that the laws be faithfully executed.

SECTION 8. They may, by proclamation, on extraordinary occasions, convene the General Council at the seat of Government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or from contagious disease. In case of disagreement between the two Houses with respect to the time of adjournment, they may adjourn them to such a time as they shall think best, not beyond the day of the next meeting of the General Council.

SECTION 9. Vacancies that may happen in office, the election to which is vested in the General Council, shall be filled by the Chief in their respective districts, during the recess of the General Council, by granting commissions, which shall expire at the end of next session.

SECTION 10. The General Council shall have power, by law, to determine the compensation of the Chiefs and Speakers.

SECTION 11. No person shall hold the offices of district Chief and any other office, or commission, either in this nation, or under any State or in the United States, or under any other power at one and the same time.

SECTION 12. There shall be elected by the joint vote of both Houses of the General Council, and Auditor and Treasurer for each district, who shall hold the office for the term of two years, and until their respective successors are elected and qualified, unless sooner removed; and perform such duties as shall be prescribed by law; and in case of vacancy by death, resignation or otherwise, such vacancy shall be filled by the Chief of the district, as in other cases.

SECTION 13. The Chiefs and speakers of the several districts, before they enter upon the duties of their offices, shall take the following oath or affirmation, viz:

“I do solemnly swear [or affirm] that I will, to the best of my judgment and ability, faithful execute the duties of my office, and will preserve, protect and defend the Constitution of the Choctaw Nation.”

SECTION 14. Each Chief shall have the of appoint [sic] his district secretary, who shall act as clerk of the Circuit Court of the district, and who shall receive such compensation and fees as the General Council may by law prescribe.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this Nation shall be vested in Supreme National Court, in District Circuit Courts and County Courts.

SECTION 2. The Supreme National Court shall be composed of four judges, one to be chosen from each district; one of whom, shall be stilled Chief Justice; any three of whom shall constitute a quorum, and the concurrence of a majority of the judges presiding, shall be in every case be necessary to a decision.

SECTION 3. The Supreme National Court, except in cases otherwise directed by this Constitution, shall have appellate Jurisdiction only, which shall be coextensive with the Nation, under such restrictions and regulations as may from time to time, be prescribed by law.

SECTION 4. The District Circuit Court shall be composed of one Circuit Judge, and shall have original jurisdiction over all criminal cases which shall not be otherwise provided for by law, and exclusive original jurisdiction of all crimes amounting to felony, and original jurisdiction of all civil cases which shall not be cognizable before the Judges of the county, until otherwise directed by the General Council, and original jurisdiction in all matters of contract, and in all matters of controversy where the same is over fifty dollars.

It shall hold its term at such times and places in each district as may be law directed.

SECTION 5. The Circuit Court shall exercise a superintending control over the County Courts, and shall have power to issue all the necessary writs to carry into effect their general and specific powers.

SECTION 6. The General Council, by joint vote of both Houses, shall elect the Judges of the Supreme National and Circuit Courts. A majority of the whole number in joint vote shall be necessary to a choice. The Judges of the Supreme National Court shall be at least thirty years of age, and shall hold their office during the term of four years from the date of their commission. The Judge of the Circuit Court be at least twenty-five years of age, and shall be elected for the term of two year terms from the date of his commission. The Supreme National Court shall appoint its own Clerk for the term of four years.

SECTION 7. The Supreme National and Circuit Judges shall, at stated times, receive a compensation for their services to be determined by law, which shall not be diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office nor hold any other office of trust or profit under this Nation or the United States.

SECTION 8. There shall be a court established in each county in the Nation, to be called County Courts, which shall have jurisdiction in all matters relating to disbursement of money for county and District purposes, and in every other case that may be necessary to the internal improvement and local concerns of their respective counties.

They shall have exclusive original jurisdiction in all matters of contract or controversy, except in action of covenant where the same is fifty dollars and over.

SECTION 9. The Judges of the County Courts shall in no case have jurisdiction to try and determine any criminal case or penal offence against this Nation, but may sit as examining Courts and commit, discharge or recognize to the Court having jurisdiction, for further trial of offenders against the peace, for the foregoing purposes; they shall have power to issue all necessary process; they shall have power to bind to keep the peace or for the good behavior. The presiding Judges of the County Courts shall receive for their services such compensation and fees as General Council may from time to time, by law, direct.

SECTION 10. No Judge shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been of council, or have presided in any County Court, except by consent of all the parties. In case all or any of the Judges of the Supreme Courts, shall be thus disqualified from presiding on any cause or causes, the Court or Judges thereof shall certify the same to the Chiefs of the Nation, who shall immediately commission, especially, the requisite number of men of law knowledge, for the trial and determination thereof. The same course shall be pursued in Circuit and County Courts as prescribed in this section, for cases in the Supreme Court. The Judge of the Circuit Courts may temporarily appoint one of the Supreme National Judges to act in his place, in the event of his inability to attend the Court in his Circuit himself. Judges shall not charge juries with regard to matter of fact, but may state the testimony and declare the law.

SECTION 11. There shall be a District Attorney elected in each District by the qualified electors of their respective Districts, whose compensations and term of service shall be prescribed by law.

SECTION 12. The General Council shall have the power, by law, to prescribe the mode and manner of holding and determining suits in the Circuit and County Courts, and the manner of granting appeals.

SECTION 13. The qualified voters residing in each county elect their respective Judges to hold their office for the term of two years, and to reside in the country for which they were elected, during their continuance in the office.

SECTION 14. The County Judges shall, in addition to their duties that may be required of them by law, as County Judges, be Judge of the Court of Probate, and have such jurisdiction in matter relative to the estate of deceased persons, executors, administrators, and guardians, as may be prescribed by law, until otherwise directed by the General Council.

SECTION 15. All suits at law, or in equity, now pending in the several Courts of this Nation may be transferred to such Courts as may have proper jurisdiction thereof.

SECTION 16. All writs and other process shall run in the name of the Choctaw Nation and bear test, and be signed by the clerks of the of the respective Courts from which they issue.

Indictments shall conclude, “against the peace and dignity of the Choctaw Nation.”

ARTICLE VII.

GENERAL PROVISIONS.

SECTION 1. The Choctaw Nation shall not, after the adoption of this Constitution, be held responsible to pay any debt or debts of individuals and the money shall never be taken from the general annuity of the Nation to be applied to any purpose whatever, unless by special appropriations of the General Council.

SECTION 2. The citizens of any of the district of the Choctaw Nation shall be entitled to all the privileges and immunities of citizenship in the several districts.

SECTION 3. The General Council shall have power by law to specify the manner in which offenders against the laws of this Nation, who may escape into the United States, or in other Indian Nations, or from one district to another in this Nation shall be demanded, apprehended and arraigned for trial, in the several courts of this Nation having original jurisdiction thereof.

SECTION 4. Every free male citizen of this Nation, who shall have attained the age of eighteen years, and who shall have been a citizen of this Nation six months, shall be deemed a qualified elector, and be entitled to vote in the county or district where he may actually reside at least one month preceding the election, for each and every office made elective in this nation.

SECTION 5. All general elections shall be by ballot, and shall be commenced and beholden every year on the first Wednesday in August, and the electors, in all cases, except in cases of treason, felony and breach of the peace, shall be privileged from arrest during their attendance on elections, and on going to and from there from.

SECTION 6. The General Council shall have the power, by law, to establish one or more precincts in each county in the several districts of this Nation, and prescribed the mode

and manner of holding and conducting elections, and to ascertain the number of votes polled at each precinct.

SECTION 7. The General Council shall have the power to pass such laws for raising revenue for the support of schools in this Nation, as they may deem expedient, but for no other purpose.

SECTION 8. The oaths of office may be administered by any Judge until the General Council shall otherwise direct.

SECTION 9. The light-horsemen in this Nation shall be appointed by the Chiefs in their respective districts. There shall be one or more appointed for each county, whose duties and compensation shall be specified by law.

SECTION 10. The General Council shall have the power to pass such laws and measures as they deem expedient for the general good, provided no law be passed or adopted, contrary to the provisions of this Constitution.

SECTION 11. From and after this adoption of this Constitution, no free negro, or any part negro, unconnected with the Choctaw or Chickasaw blood, shall be permitted to come and settle in the Choctaw Nation.

SECTION 12. The mode of declaring war in this Nation shall be by at least two-thirds of the members of General Council, in full Council, with the approval of the Chiefs, unless in the case of actual invasion by an enemy, in which case the people shall have the right to defend themselves until the Council is convened.

SECTION 13. When a person shall be elected a member of the General Council, his term of service shall not expire until next election day.

SECTION 14. The Chiefs shall have the power, by the advice and consent of the General council, to appoint commissioners or delegates to transact such business as may become expedient to the Choctaw Nation, and all other officers whose appointments are not herein or otherwise provided for.

SECTION 15. The General Council of the Choctaw Nation shall have the power to pass such laws as they may think expedient to punish rebellion, treason and other high crimes against the Nation.

SECTION 16. No person who is any part negro shall ever be allowed to hold any office under this Government.

SECTION 17. The General Council shall have the power, by law, to naturalize and adopt as citizens of this Nation, any Indian or descendent of an Indian except a negro or descendent of a negro but who on petition to the General council, giving satisfactory proof of good character, the Council may permit them to live in the Nation.

SECTION 18. All contested elections shall be determined by the General Council.

SECTION 19. Members of the General Council and all offices both Executive and Judicial shall be bound by an oath or affirmation to support the Constitution of this Nation and to perform the duties of their respective offices with faithfulness and fidelity.

SECTION 20. The Captains of the several districts shall hold their office until the expiration of the annuity under the treaty of Dancing Rabbit Creek, at which time the system of captaincy as heretofore existed in the Nation shall be discontinued.

SECTION 21. Eighteen thousand dollars of the interest money arising from Chickasaw funds, granted to the Choctaws by convention held and concluded at Doaksville, shall, after the year 1842, be set apart annually for educational purposes and the remaining seven thousand dollars shall be set apart annually to be expended for blacksmith shops and other national purposes.

SECTION 22. The General Council shall have power to create, by law, such regulations and commissions, and appoint superintendents and such other officers as the case may require for the promotion and advancement of all the schools in the Nation.

SECTION 23. Any citizen of this Nation who may find any mine or mines or mineral waters shall have exclusive right and privilege, so long as he may choose to work the same within one mile in any direction from his work or improvement, provided, however, he does not interfere with the rights of the former settler.

SECTION 24. No person who denies the being of a God or a future rewards and punishments, shall hold any office in the civil department of this Nation, nor be allowed his oath in any court of justice.

SECTION 25. The Treasurer of this Nation, together with all other persons who may be entrusted with public money, shall be required to give such bond and security as may be prescribed by law.

MILITIA.

SECTION 26. The General Council shall have the power, by law for organizing and disciplining the militia of this Nation, in such manner as they shall deem expedient, not incompatible with the Constitution, treaties, and laws of the United States, in relation thereto.

SECTION 27. The Chiefs shall have the power to call forth the militia to execute the laws of the Nation, to suppress insurrections and to repel invasion.

SECTION 28. The General Council shall have the power, by law, to determine the compensation and fees of all officers not otherwise provided for by this Constitution.

SECTION 29. The General Council shall have the power, by law, to prescribe the mode and manner of punishing capital crimes and the offenders against the laws, dignity and peace of the Nation.

SECTION 30. Whenever two-thirds of the members of the General Council assembled, shall deem it necessary, they shall propose amendments to this Constitution, and if four-fifths of the next General Council, approve of such amendment, it shall become incorporated into this Constitution.

We do declare and ordain that all the provisions in the Constitution adopted in the year 1842, and not revised nor adopted by the Convention of 1850, are hereby null and void; and that any law which may be passed contrary to the provisions of this Constitution, shall be null and void, and all right and powers not herein granted or expressed, shall be reserved unto the people.

P. P. PITCHLYNN,

Pres. Of the Convention.

George Hudson, Wallis Laflore,

James Garland, Thomas Pitchlynn.