

# CONSTITUTION OF THE CHOCTAW NATION

November 10, 1842

## PREAMBLE

We, the people of the Choctaw Nation, having a right to establish our own form of Government, not inconsistent with the Constitution, Treaties and Laws of the United States: by our Representatives, assembled in Convention at Nanihwaiya on Thursday the tenth day of November, 1842, 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 27<sup>th</sup> day of September 1830: 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 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 that 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: Mushulitubbi District, Apakshanubbi District, Pushimataha District, and Chickasaw District.

The boundary line of Mushulitubbi District shall begin near Fort Smith where the Arkansas boundary line 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 to the beginning.

The boundary of Apakshanubbi District shall begin on Red River where the Arkansas State Line strikes the same, thence running up said River to the mouth of Kiamichi, 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 Mushulitubbi 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, thence along said boundary of the State of Arkansas to the beginning.

The boundary of Pushmataha District shall begin on Red River at the mouth of Kiamichi, thence running up said Red River to the mouth of Island Bayou to where the Chickasaw District boundary strikes said river, thence along said Chickasaw District boundary to the dividing ridge between the Red and Canadian Rivers, thence eastwardly along the line of Mushulitubbi District on the top of the dividing ridge to where the district line of Apakshanubbi District intersects Mushulitubbi District, thence south along said Apakshanubbi 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, thence along the dividing ridge to the road leading from Fort Gibson to Fort Washita, thence along said road to the line dividing Mushulitubbi and Pushmataha Districts, 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.

## **ARTICLE I.**

### **DECLARATION OF RIGHTS.**

SECTION 1: All free men, when they form a Social Compact, are equal in rights; and 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 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 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 religious sect, society, denomination or mode of worship, and no religious test shall be required as a qualification to any public trusts under this government.

SECTION 4: No human authority ought in any case whatever to control or interfere with the right 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 granted or conferred under this government, nor shall an office be created, the appointment of which shall be for longer time than during good behavior.

SECTION 7: The right by trial by jury shall remain inviolate.

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

## **ARTICLE II.**

### **DISTRIBUTION OF POWERS.**

SECTION 1: The powers of the Government of the Choctaw Nation shall be divided into four distinct 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, 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 III.**

### **DISTRIBUTION OF POWERS.**

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 three Senators from each District, chose by the qualified electors for the term of two years.

SECTION 3: No person shall be a 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 for which he shall be chosen.

SECTION 4: No person shall be a Senator unless he be a natural born 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, and no person shall be convicted without 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 charged for impeachment are preferred, the person or persons so charged shall be duly notified by the light-horse-men, by the order of the Chief, to attend the General Council, that his trial may be fair and impartial.

SECTION 9: The times and places of holding election for Chiefs, Senators, Representatives and other officers shall be prescribed by law.

SECTION 10: The House of Representatives shall be composed of members chosen every year from the qualified electors in the several Districts at the ratio of one Representative to every one thousand citizens; nevertheless, when there is a fractional number exceeding five hundred citizens in any District, they shall be entitled to one additional Representative. No person shall be a Representative unless he be a citizen of the Choctaw Nation, or who shall not have attained to 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 11: In case of the death, resignation or inability of any of the Senators or Representatives from the several Districts, the District Chiefs or his Speaker shall have the power to make temporary appointments until the next election.

SECTION 12: The Senators or Representatives shall receive for their services such compensation as may be determined by the General Council, and paid out of the national funds.

SECTION 13: Each House shall be the judge of the election returns and qualification of its own members, and a majority of each House shall constitute a quorum to do business.

SECTION 14: Bills may originate in either House, and be amended, altered or rejected by the other; but no bill shall have the force of a law until it shall have passed by a majority of both branches of the General Council; and every one having passed by both branches of the General Council shall be signed by the Speaker and President of their respective bodies.

SECTION 15: Every bill which shall have passed the General Council shall be presented to the chiefs or speakers; if they approve it, they shall sign it, and it shall become a law; if not, they shall return it to the branch in which it originated, with their objections. The General Council shall then reconsider it, and if repassed by two-thirds of both branches, it shall become a law as if the Chiefs had signed it.

SECTION 16: The House of Representatives when assembled shall choose a Speaker and its other offices, and when a majority of the members are assembled it shall constitute a quorum to do business.

SECTION 17: The General Council may determine the rules of its own proceedings, and punish a member or other persons for disorderly behavior; and shall keep a journal of its proceedings, and cause a true copy of the same to be sent to each district.

SECTION 18: The General Council of the Choctaw Nation shall assemble at least once in every year, and such meeting shall be at Nanihwaya on the first Monday in October every year.

SECTION 19: The Yeas and Nays of the members of the General Council on any question shall, at the request of any three members present, be entered on the journal.

#### **ARTICLE IV.**

#### **EXECUTIVE DEPARTMENT.**

SECTION 1: The Supreme Executive Power of this 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 of the several Districts shall hold their office for the term of four years from the time of their installation until their successors shall be duly elected; but shall not be eligible to the same office for more than two terms in succession.

SECTION 3: The District Chiefs and their Speakers shall be elected by the qualified electors in their respective Districts; but in case of the death, resignation, removal in ability of any of the Chiefs, the Speaker shall exercise the duties of the Chief until [a new Chief shall be chosen at] the next July election, which Chief when elected shall only serve out the time of the remaining term. The General Council shall have the power by law to determine the compensation of the Chiefs and Speakers of the several Districts.

SECTION 4: No person except a natural born citizen of the Choctaw Nation shall be eligible to the office of Chief, neither shall any person be eligible to that office, who shall not have attained to the age of thirty years, and been an inhabitant of the District from which he shall be chosen at least one year.

SECTION 5: Each Chief shall from time to time give the General Council information respecting the affairs of his own District, and recommend to their consideration such measures as he may deem expedient, and they shall take care that the laws be faithfully executed in their respective Districts.

SECTION 6: The District Chiefs before they enter upon the duties of their respective 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 faithfully execute the duties of my office, and will preserve, protect and defend the Constitution of the Choctaw Nation."

SECTION 7: Each Chief shall have the right to appoint his own District Secretary and the Light-horse-men within his District.

SECTION 8: Any two of the District Chiefs shall have power on extraordinary occasions to convene the General Council at Nanihwaiya, but such called Sessions shall not take place more than once in any year.

SECTION 9: There shall be an election held for District Chief and Speaker in Apakshanubbi District on the second Wednesday in July, 1844, which Chief and Speaker when elected shall serve only two years; there shall be also an election held in Pushimataha District for Chief and Speaker on the second Wednesday in July, 1845, which Chief and Speaker when elected shall serve only one year; and on the second Wednesday in July, 1846, there shall be an election held for the District Chief and Speaker in the several Districts of the Choctaw Nation, and at the end of every subsequent period of four years there shall be an election held for District Chief and Speaker throughout the Choctaw Nation.

SECTION 10: During the absence of any of the District Chiefs his Speaker shall exercise the duties of Chief.

## **ARTICLE V.**

### **JUDICIAL DEPARTMENT**

SECTION 1: The Judicial Power of this Nation shall be vested in a National, and Supreme and Inferior District Courts.

SECTION 2: The National Court shall be composed of one National Judge together with the Supreme Judges of the several Districts, who shall sit and hold the National Court at Nanihwaiya during the Session of the General Council.

SECTION 3: The National Judge together with any two or more of the Supreme Judges, or any three of the Supreme Judges, shall be sufficient to constitute the National Court of the Choctaw Nation, and whose decision shall be ultimate and final.

SECTION 4: The National Judge and Supreme District Judges shall be elected by the General Council, and hold their offices during good behavior.

SECTION 5: No person except a natural born citizen shall be eligible to the office of National Judge, and who shall not have attained to the age of thirty years.

SECTION 6: The Supreme District Court shall be composed of one Superior District Judge, with from one to four inferior Associate Judges, composed of the Judges of the Inferior Courts, and the Inferior Courts shall be composed of one Judge to each Court.

SECTION 7: The Inferior District Judges shall receive their appointments from the District Chiefs in their respective districts, and shall hold their office during good behavior.

SECTION 8: No person who shall not have attained to the age of twenty-five years, shall be eligible to the office of Supreme District Judge.

SECTION 9: The General Council shall have the power by law to designate the times and places of holding the Supreme and Inferior courts, also to prescribe the manner in which the Courts of this Nation shall be conducted.

SECTION 10: All trials in the District Courts shall be by jury composed of twelve freed disinterested citizens of the Choctaw Nation, who shall all agree in a verdict.

SECTION 11: In all trials by jury the Judge shall empanel at Court twenty-four disinterested men, out of which the defendant shall have the right to select twelve jurors to decide the case in suit.

SECTION 12: No Judge shall sit on the trial of any Court when the parties or either of them shall be connected with him by affinity or consanguinity, or when he may be interested in the same, except by consent of the parties, and whenever a case in Court is so situated as aforesaid, one of the Judges of the Inferior Court shall preside for the determination thereof.

SECTION 13: In all trials of capital and criminal cases, the defendant alone shall have the right of an appeal from an Inferior Court to a Supreme Court within the District, or the Supreme Court of another District, and from thence to the National Court; but in all civil cases either party shall the right of appeal in the manner aforesaid: Provided, the judge of such Court or Courts shall be satisfied that ample justice has not been done to the party seeking an appeal, and they shall grant it.

SECTION 14: The Judges of the Courts of this Nation shall receive for their services such compensation to be fixed by law which shall not be diminished during their continuance in office.

SECTION 15: There shall be District Attorneys elected in each District by the qualified electors of their respective Districts, whose compensation and term of service shall be prescribed by law.

## **ARTICLE VI.**

### **GENERAL PROVISIONS.**

SECTION 1: The Choctaw Nation shall not, after the adoption of this Constitution, be responsible to pay any debt or debts of individuals; and no money shall ever be taken from the General annuity of the Nation to be applied to any purpose whatever unless by special appropriation by the General Council.

SECTION 2: The citizens of any of the Districts of the Choctaw Nation shall be entitled to all the privileges and immunities of citizenship 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 crimes, who shall flee from justice, and be found in another District, shall on demand from 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 for trial 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 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 and Chickasaw blood, shall be permitted to come and settle in the Choctaw Nation.

SECTION 7: When offenders against the laws of this Nation are arraigned for trial, they shall be at liberty to defend their own case, or employ counsel, or both, that the trial may be fair and impartial.

SECTION 8: The mode of declaring war in this Nation, shall be by at least two-thirds of the members of the General Council, in full Council, with the approval of at least two of the District Chiefs or their Speakers, 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 9: When a person shall be elected a member of the General Council, his term of service shall not expire until the next election day.

SECTION 10: The District 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 otherwise provided for.



SECTION 11: The General Council of the Choctaw Nation shall have the power to pass such laws as they think expedient, to punish rebellion, treason and other high crimes against the Nation.

SECTION 12: No person who is any part negro shall ever be allowed to hold any office under this Government.

SECTION 13: The General Council shall have the power by law to naturalize and adopt as citizens of this Nation any Indian or descendant of other Indian tribes, except a negro or descendant 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 14: There shall be a Treasurer and Auditor elected by General Council for each District, whose duties shall be prescribed by law, and who shall hold their office two years, until their successors shall be duly elected and qualified.

SECTION 15: All contested elections shall be determined by the General Council.

SECTION 16: Members to the General Council, and all officers, both executives 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 17: The General Council shall have the power to prescribe by law the mode of keeping and disbursing the District funds.

SECTION 18: At the next July election there shall be thirty Captains elected by the qualified electors in Apakshanubbi District, fifteen each in Mushulitubbi, Pushimataha and Chickasaw Districts, whose term of office shall be four years, subject to re-election, and whose duty shall be to see that justice is done to every individual at the payment of annuities, and use exertions, both by example and precept, to induce the people to live soberly, industriously and peaceably among one another in observance of the laws of their country. The compensation to Captains shall be determined by law.

SECTION 19: Eighteen thousand dollars of the interest money arising from the Chickasaw funds, granted to the Choctaws by convention held and concluded at Doaksville, shall, after the year of 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 20: The General Council shall have power to create by law such Regulations, Commissioners, Superintendents or such other officers as the case may require for the promotion and advancement of all the schools in the Nation.

## MILITIA.

SECTION 21: The General Council shall have 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 22: The Chief shall have power to call forth the Militia to execute the laws of the Nation, to suppress insurrection and repel invasion.

SECTION 23: All suits at law or in equity now pending in the several courts in this Nation may be transferred to such courts as may have proper jurisdiction thereof.

SECTION 24: No citizen of this Nation shall ever be required to pay poll, tax or be required to taxation for any property or for any pursuit of business whatever.

SECTION 25: Any citizen of this Nation who may find any mine or mines or mineral water, 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 a former settler.

SECTION 26: In all elections by the people it shall be in the following manner: viz. the name of each candidate shall be written in a separate column by the district secretary, naming the office or offices for which the candidates are running, and the name of every voter carefully written out in full and polled, inserting his vote in the same column in which the names of the candidates for whom he voted are placed, and the district with two more temporary clerks appointed by the Supreme Judge, or any one of the Inferior Judges shall be authorized to act at every election, and those three shall write down the name of every voter as directed above. When the polling is completed they shall carefully compare their copies together and count the votes, and if they prove correct the District Secretary shall proclaim on the ground how the votes stand, and who are elected.

SECTION 27: When there are several candidates running together for the same office, and out of them only a choice is to be made, the one having the highest number of votes shall be elected; but when several selections are to be made, as in the case of the members of the General Council, those only of the required number of votes shall be elected; but in case of a tie a new election shall immediately be made of the persons in tie.

SECTION 28: The Supreme District Judge with any one or two Judges of the Inferior Court, or they alone, shall preside over the elections as judges to see that the election be done fairly and correctly.

SECTION 29: Every male citizen of the Choctaw Nation at the age of sixteen years and upwards, who shall be inhabitant of the Choctaw Nation, and shall have resided in the District at least one month, shall be deemed a qualified elector.

SECTION 30: The District Chiefs shall have power to remove any person for misdemeanor in office under their appointment.

SECTION 31: There shall be no retrospective law or any law passed under this Constitution impairing the obligation of contracts.

SECTION 32: In case of death, resignation or inability of any of the Supreme District Judges and District Attorneys, the Chief shall have the power to make temporary appointments until the time arrives for appointing or electing such officers.

SECTION 33: The National Judge or any one of the Supreme District Judges shall administer the oath of office to any of the several offices in this Nation. The Chief shall be required to take the oath of office at Nanihwaiya in the presence of the General Council.

SECTION 34: The jurors shall take the following oath: “We do solemnly swear in the presence of God, that we will to the best of our judgment rendered a verdict according to law, justice, and the evidence which may be tending the case now before us.”

We do declare and ordain that all the provisions contained in the Constitution of 1838, not revised and adopted by the convention in 1842, are hereby null and void, and that there shall be no alternations made to this Constitution until the annual meeting of the General Council in the year 1850; and that any law which may be passed contrary to the provisions of this Constitution shall be null and void; and all right and power not herein granted or expressed, shall be reserved unto the people.