

# CONSTITUTION OF THE CHOCTAW NATION

January 11, 1860

## PREAMBLE

We, the representatives of the people inhabiting the Choctaw Nation contained with the following lands, to wit: Beginning at a point on the Arkansas river, one hundred paces east of old Fort Smith, where the western boundary line of the State of Arkansas crosses the said river; and turning hence due south to Red River; thence up Red River to the point where the meridian of one hundred degrees west longitude crosses the same; thence north along said meridian to the main Canadian river; thence down said river to its junction with the Arkansas River; thence down said river to the place of beginning, except the territory bounded as follows, to wit: Beginning on the north bank of Red River, at the mouth of Island Bayou where it empties into Red River, about twenty-six miles on a straight line below the mouth of False Washita; thence running a northwesterly course along the main channel of said bayou to the junction of the three prongs of said bayou, nearest the dividing ridge between Washita and Low Blue River, as laid down on Capt. R. L. Hunter's map; thence northerly along the eastern prong of Island Bayou to its source; thence due north to the Canadian river; thence west along the main Canadian to the ninety-eight degree of west longitude; thence south to Red River; and thence down Red River to the place of beginning; Provided, however, if the line running due north from the eastern south of Island Bayou, to the main Canadian, shall not include Allen's or Wapanaeka Academy within the Chickasaw district, then an offset shall be made from said lines of boundary, said boundaries being the limits of the Chickasaw district, assembled in convention at the town of Doaksville, on Wednesday, the eleventh day of January, one thousand eight hundred and sixty, in pursuance of an act of the general council approved October 24, 1859, in order to secure to the citizens thereof the right of life, liberty and property, do ordain and establish the following constitution and form of government, and do mutually agree with each other to form ourselves into a free and independent nation, not inconsistent with the constitution, treaties and laws of the United States, by the name of the Choctaw Nation.

## 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: Moshulatubbee District, Pushmataha District, Apuckshunubbee District and Hotubbee District.

The boundary line of Moshulatubbee District Shall begin near old Forth Smith, where the Arkansas Boundary line crosses the Arkansas river; thence up said river to the Canadian fork; thence up said Canadian to where the Chickasaw District boundary strikes the same, as defined by the treaty of 1855; thence along the said Canadian and Red Rivers; thence easterly along said dividing ridge to the western boundary of the state of Arkansas; thence along said Arkansas line to the beginning.

The boundary of Apuckshunnubbee 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 the mouth of Jack's Fork; thence up said Jack's Fork to the old military road; thence along said road to the boundary line of Moshulatubbee district, on the top of the dividing ridge, between the Arkansas and Red Rivers; thence easterly along said boundary to the western boundary of the state of Arkansas; thence along the said state line 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 eastern boundary line of the Chickasaw District strikes said river, as defined by the Treaty of 1855; thence along said boundary line to the dividing ridge between the Canadian and Red Rivers; thence eastern along said ridge to the line of Moshulatubbee district, on the top of the dividing ridge, to where the district line of Apuckshunnubbee district intersects Moshulatubbee District; thence southerly along said line to the beginning.

The boundaries of Hotubbee district shall be embraced within the limits of ninety-eight and one hundredth degree of west longitude, and between Red River and Canadian river, known as the "Leased Land."

## **ARTICLE I**

### **DECLARATION OF RIGHTS.**

That the general, great and essential principles of liberty and free government may be recognized and established, we declare:

SECTION 1: That 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 from the community, but in consideration of public services.

SECTION 2: That all political power is inherent in the people, and all free governments are founded on their authority and established for their benefit, and therefore they have at all times and inalienable and indefeasible right to alter, reform or establish their form of government in such a manner as they may think proper or expedient.

SECTION 3: There shall be no establishment of religion by law. No preference shall ever be given by law to any religious sects, 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 in matters of religion.

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 without the consent of the general council, and without just compensation being first made therefore.

SECTION 6: No persons shall ever be appointed or elected to any office in this nation for life or during good behavior, but the tenure of all offices shall be for some limited period of time if the person appointed or elected thereto so long behave well.

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 to restrain the rights thereof. That 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 seizures and searches, and that no warrant to search any place or to seize any person or thing shall issue, without describing the place to be searched and the person or thing to be seized as nearly as may be nor without probable cause supported by oath or affirmation. But in all cases where suspicion rests on any person or persons of conveying 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 free man shall be taken, or imprisoned, or disseized of his freehold liberties or privileges, 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: No person shall ever be imprisoned for debt.

SECTION 13: That excessive bail shall be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

SECTION 14: That all courts shall be open and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

SECTION 15: That the citizens have a right in a peaceable manner, to assemble together for their common good, to instruct their representatives, and apply to those invested with the powers of the government for redress or grievances, or other proper purposes, by petition, address or remonstrance.

SECTION 16: That no power of suspending laws shall be exercised except by the general council or its authority.

SECTION 17: That in all criminal prosecutions, the accused hath a right to be heard by himself or counsel, or both, to demand the nature and cause of the accusation, to be confronted by the witnesses against him, to have a compulsory process for obtaining witnesses in his favor, and in all prosecutions by indictment or information, a speedy and public trial by an impartial jury of the country or district where the offence was committed, that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, but by due course of law.

SECTION 18: That all prisoners shall, before conviction, be bailable by sufficient securities, except for capital offenses, where the proof is evident or the presumption great, and the privileges of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it.

SECTION 19: That the general council shall have power to pass general laws in regard to the collection of fines, bonds, forfeitures, and court fees, and direct the manner of such collection.

SECTION 20: No property qualification for eligibility to office, or for the right of suffrage, shall ever be required by law in this nation.

SECTION 21: No conviction for any offense shall work corruption of blood and forfeiture of estate. The general council shall pass no bill of attainder, retrospective law, nor law impairing the obligation of contracts.

## **ARTICLE II.**

### **DISTRIBUTION OF POWER**

SECTION 1: The powers of government of the Choctaw Nation shall be divided into three district departments, and each of them confine to a separate body of magistracy, to wit: 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 of one of those departments, shall exercise any power properly belonging to either of the others, except in instances hereafter expressly directed by the general council.

## **ARTICLE III.**

### **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 thereof, for the term of two years.

SECTION 3: No person shall be a senator who shall not have attained the age of thirty years and has been one year a citizen of this nation, and who shall not, when elected be an inhabitant of that district at least six months preceding his election for which he shall be chosen.

SECTION 4: The house of representatives shall be composed of members chosen each year by the qualified electors in the several counties of each district, the ratio of one representative to every one thousand citizens, nevertheless when there is a fractional numbers of five hundred or more citizens in any county, they shall be entitled to one additional representative; but when the population of any one of the counties shall not reach the ratio of one thousand, they shall still be allowed one representative.

SECTION 5: The case of death, resignation, or inability of any of the senators or representatives, the principal chief shall have the power to make temporary appointments and fill vacancies that may occur in any of the counties.

SECTION 6: No person shall be representative, unless he be a citizen of this nation, and shall have been an inhabitant thereof six months next preceding his election, and the last month thereof a resident of the county for which he shall be chosen, and shall have attained the age of twenty-one years.

SECTION 7: The House of Representatives, when assembled shall choose a speaker and its other officers, and the senate shall choose a president and its officers, and each shall judge of the qualifications and elections of its members, but a contested election shall be determined in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SECTION 8: Every bill shall have passed both houses of the legislature shall be presented to the principal chief; if he approved he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journal and proceed to reconsider it; if, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent with the objections to the other house, by which shall likewise be reconsidered; if approved by two-thirds of the members present of that house, it shall become a law, but in such case, the vote of both members voting for and against the bill be entered on the journals of each house respectively; if any bill shall not be returned by the principal chief within three days (Sundays excepted) after it shall have been presented to him the same shall become a law in the like manner as if he had signed it. Every bill presented to the principal chief one day previous to the adjournment of the legislature, and not returned to the house in which it originated before its adjournment, shall become a law and have the same force and effect as if signed by the principal chief.

SECTION 9: Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and with the consent of two-thirds, expel a member, but not a second time for the same cause.

SECTION 10: Each house shall keep a journal of its proceedings and publish the same, and the yeas and nays of the members of either house, on any questions shall, at the desire of any three members present be entered on the journal.

SECTION 11: Each house may punish by imprisonment, during the session, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings, provided such imprisonment shall not at any one time exceeding forty-eight hours.

SECTION 12: Neither house shall, without consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SECTION 13: Each member of the general council shall receive from the public treasury a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

SECTION 14: No persons who had therefore been, or hereafter may be a collector or holder of public moneys, shall have a seat in either house of the general council, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SECTION 15: The first election for senators and representatives shall be general throughout the nation, and shall be held on the first Wednesday in August, 1860, and thereafter there shall be biennial elections for senators.

SECTION 16: Senators and representatives shall, in all cases except of treason, felony, or breach of the peace, be privileged from arrest during the session of the general council, and in going to and returning from the same.

#### **ARTICLE IV.**

#### **JUDICIAL DEPARTMENT**

SECTION 1: The judicial power of this nation shall be vested in one Supreme Court, in circuit and county courts.

SECTION 2: Until Hotubbee district shall be duly organized, and officers elected therein under this constitution, the supreme court shall be composed of three supreme judges, one to be chosen from Apuckshunnubbee District, one from Pushmataha district, and one from Mosholatubbee district, one of who shall be styled chief justice, and two of whom shall constitute a quorum to do business.

SECTION 3: The Supreme Court shall have no jurisdiction but such as properly belongs to a court of errors and appeals.

SECTION 4: The Supreme Judges shall have power to issue writs and other process necessary to the exercise of the appellate jurisdiction, and shall have original jurisdiction only in such cases as may hereafter be provided by law, and shall be conservators of the peace throughout the nation.

SECTION 5: The circuit courts shall be composed of one circuit judge in each district, and shall have original jurisdiction in all criminal cases which shall not be otherwise provided for by law, and exclusive original jurisdiction in 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 law, and original jurisdiction in all matters of contracts, 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 are now specified by law or may hereafter be provided.

SECTION 6: The circuit courts shall exercise a superintending control over the county courts, and shall have power to issue all necessary writs and process to carry into effect their general and specific powers under such regulations and restrictions as may be provided by law.

SECTION 7: The circuit judge in each district shall be elected by the qualified voters of their respective districts, and the general council by a joint vote of both houses shall elect the Supreme Judges. Any person receiving the highest number of votes cast shall be elected.

SECTION 8: The judges of the Supreme Court shall be at least thirty years of age, and the circuit judge of the circuit courts shall be at least twenty-five years of age before they shall serve for the term four years from the date of their commission. They shall appoint their own clerks under such provisions as the law may prescribe.

SECTION 9: The judges of the Supreme Court and the Circuit Courts shall at stated times receive such compensation for their services, which not be increased or diminished during the term for which they are elected, as may be determined by law. They shall not be allowed any fees or perquisites of office.

SECTION 10: There shall be a court established in each county of this nation, to be called county courts, which shall have jurisdiction in all matters to disbursements of many for county purpose, and in every other case that may be necessary to the internal improvements and local concerns of their respective counties.

SECTION 11: The judges of the county court shall in no case have jurisdiction to try and determine any criminal case or penal offense against this nation, but may sit as examining courts, and commit, discharge, or recognize to the court having jurisdiction for further trial of all offenses against the peace and dignity of this nation; for the foregoing purposes, they shall have power to issue all necessary writs and process, to bind any person to keep the peace, or to give security for his good behavior.

SECTION 12: The county judges shall be elected by the qualified electors of their respective counties, and shall be commissioned by the principal chief, and shall hold their office for the term of two years.

SECTION 13: No judges 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 to him by affinity or consanguinity within such degree as may be prescribed by law, or in which he may have been of council, or have presided in any circuit or county courts, except by consent of all parties. In case any or all of the judges of the Supreme Court shall be thus disqualified from presiding on any cause, or causes, the court of judges thereof shall certify the same to the principal chief of the nation, who shall immediately commission the requisite number of men learned in the law for the trial and determination thereof. But in case such disqualification shall take place in any of the circuit or county judges, the circuit or county judge shall have the power to appoint a substitute for that particular case for which he may be disqualified.

SECTION 14: Judges shall not charge juries with regard to matter of fact, but may state the testimony and declare the law.

SECTION 15: There shall be a prosecuting attorney elected in each district by the qualified electors of the respective districts whose compensation and term of service shall be prescribed by law.

SECTION 16: The general council shall have power by law to prescribe the manner of holding and determining suits in the circuit and county courts and the manner of granting appeals.

SECTION 17: The county judges in addition to their respective duties that may be required of them by law, shall be judges of the courts of probate and have such jurisdiction in matters relative to the estate of deceased persons, executors, administrators and guardians as may be prescribed by law, and otherwise directed by the general council.



SECTION 18: Writs and other process shall run in the name of the Choctaw Nation and bear test and be signed by the clerks of their respective courts from which they issue, and all indictments shall conclude against the peace and dignity of the Choctaw Nation.

SECTION 19: The general council shall provide by law for determining contested elections of county judges.

SECTION 20: The Supreme Court shall be held twice in each year at the seat of government of the Choctaw Nation.

SECTION 21: The county judges shall appoint their own clerks who will act as treasurer of the county.

## **ARTICLE V.**

### **EXECUTIVE DEPARTMENT**

SECTION 1: The supreme executive power of the Choctaw Nation shall be vested in one principal chief, assisted by three subordinate district chiefs, who shall hold their respective offices for the term of two years from the time of their installation. But they shall not be eligible for the same office for more than two terms in succession.

SECTION 2: The principal chief of the Choctaw Nation shall be elected by the qualified electors of the Choctaw nation, and the subordinate chiefs of the Choctaw Nation shall be elected by the qualified electors of their respective districts on the first Wednesday in August, eighteen hundred and sixty, and every two years thereafter.

SECTION 3: The returns of every election for principal chief shall be made out, sealed up and transmitted to the supreme judges of each district to be forwarded by him to the national secretary who shall deliver them to the speaker of the house of representatives during the first week of its organization, who shall proceed to open and count the votes in the presence of both house of the general council, and the person having the highest number of votes shall be declared principal chief by the speaker. But if two or more shall be equal or highest in votes, then one of them shall be chosen principal chief by the joint election for district and county officers shall be made out, sealed and transmitted to the supreme judge of each district and county offices are elected, and forward a true copy of the same to the national secretary who shall file them in his office for safe keeping.

SECTION 4: In case of death, resignation or removal of the principal chief, the president of the senate shall exercise the duties of principal chief until the next regular election for that office, but should the vacancy be on account of the inability of the principal chief to discharge his duties, the president of the senate shall exercise the said duties until such inability shall be removed.

SECTION 5: In case of any vacancy occurring in the office of district chiefs, the principal chief shall have the power to appoint a chief pro tem, in the district where such vacancy may occur until the next regular election for that office.

SECTION 6: No person shall be eligible to the office of principal or district chief unless he shall have attained the age of thirty years, and have been an inhabitant of the Choctaw Nation at least five years next preceding his election.

SECTION 7: The principal chief shall from time to time give to the general council information of the state of the government and recommend to the consideration such measures, as he may deem expedient.

SECTION 8: The principal chief shall take care that the laws be faithfully executed.

SECTION 9: The principal chief may, by proclamation, on extraordinary occasions, convene the general council at the seat of government, or at a different place if that place have been become since their last adjournments dangerous from an enemy or from contagious disease.

SECTION 10: In case of disagreement between the two houses with respect to the time of adjournments, the principal chief may adjourn them to such time as he shall think best, not beyond the day of the next meeting of the general council.

SECTION 11: All vacancies, which may occur in offices that are elective by the people or general council, the principal chief shall have the power to fill such vacancies by appointment until the next regular election.

SECTION 12: No person shall hold office of principal chief or district chief, and any other office or commission, either in this nation, or under any state, or in the United States or any power of one and the same time.

SECTION 13: The district chiefs shall have such superintending control over the affairs of their respective districts as may be prescribed by the general council. It shall be their duty to have the laws properly enforced within their respective limits. They shall from time to time report to the principal chief such information respecting the affairs of their districts, and recommend for his consideration such measures, as they may deem expedient.

SECTION 14: A sheriff and rangers shall be elected in each county by the qualified electors thereof, who shall hold their office for the term of two years unless sooner removed. And it shall be the duty of the district chief to appoint a competent number of lighthorsemen, in their respective districts as may hereafter be provided by law, who shall hold their offices for the term of two years unless sooner removed.

SECTION 15: The principal chief, national secretary, national treasurer, national auditor, and national attorney, shall reside at or near the seat of government.

SECTION 16: The principal chief shall be head commander of the militia of this nation.

## **ARTICLE VI.**

### **IMPEACHMENTS**

SECTION 1: The House of Representatives shall have the sole power of impeaching.

SECTION 2: All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SECTION 3: The chiefs and all civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust or profit under this nation, but the party convicted shall nevertheless be liable, and subject to indictment, trial, and punishment according to law as in other cases.

## **ARTICLE VII.**

### **GENERAL PROVISIONS**

SECTION 1: Until Hotubbee District shall be duly organized, the principal chief of the Choctaw Nation shall exercise such authority over the citizens of this nation, living in that district, as he may deem expedient for the protection of person, life and property.

SECTION 2: No person shall be principle, or subordinate chief, senator, or representative, unless he be a free male citizen of the Choctaw Nation, and a lineal descendant of the Choctaw or Chickasaw race.

SECTION 3: The general council shall have the power to determine what county or counties shall be entitled to elect one or more senators in the several districts of this nation.

SECTION 4: Members of the general council and other officers, both executive and judicial, before they enter upon the duties of their respective offices shall take the following oath or affirmation, to wit: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the Choctaw Nation, and that I will faithfully and impartially discharge, to the best of my abilities, the duties of the office of \_\_\_\_\_ according to law. So help me God."

SECTION 5: The general council shall have the power to determine the compensation of the principal chief, district chiefs, and other officers of the nation, which compensation shall not be increased or diminished for the term of years they are elected or appointed.

SECTION 6: 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 into any Indian nation, or from one district into another in this nation, shall be demanded, apprehended, and arraigned for trial in the several courts of this nation, having original jurisdiction thereof.

SECTION 7: Every freed male citizen of this nation who shall have attained to the age or eighteen years, and who shall have been a citizen of the nation six months, shall be deemed a qualified elector, and shall be entitled to vote in the county or district where he may have actually resided at least one month preceding the election for each and every office made elective in this nation.

SECTION 8: All general elections shall be by ballot, and the electors in all case, except in cases of treason, felony, and breach of the peace, shall be privileged from arrest during their attendance at elections and on going to and returning there from.

SECTION 9: 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 prescribe the mode and manner of holding and conducting elections.

SECTION 10: The oath of office may be administered by any of the judges of this nation until the general council shall otherwise direct.

SECTION 11: The general council shall have the power to pass such laws and measures as they shall deem expedient for the general good of the Choctaw people, provided no law shall be passed or adopted contrary to the provisions of this constitution.

SECTION 12: 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 the principal chief, unless in case of actual invasion by an enemy, in which case the people shall have the right to defend themselves until the council is convened by proclamation of the principal chief, and measures of defense prescribed.

SECTION 13: The principal chief shall have the power, by and with the advice and consent of the senate, 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 14: The general council of the Choctaw Nation, shall have the power to pass such laws as they may deem expedient to punish, rebellion, treason, and other high crimes against the nation.

SECTION 15: All contested elections for the principal chief and other officers shall be determined as the law may prescribe.

SECTION 16: The general council shall have the power to create by law such regulations and commissions, and appoint superintendents and such other officers, as the case may be, required for the promotion and advance of all the schools of this nation.

SECTION 17: Eighteen thousand dollars of the interest money arising from the Chickasaw fund, granted to the Choctaws by convention held and concluded at Doaksville, shall be set apart annually for educational purpose, and the remaining seven thousand dollars be set apart annually, to be expended as the law may hereafter direct.

SECTION 18: Any citizen of this nation who may find any mine or mines, or mineral waters, shall have exclusive right and privilege to work the same, as long as he may choose, within one mile in any direction from his works or improvements, provided, however, he does not interfere with the rights of the former settler.

SECTION 19: No person who denies the being of a God, or a future state of rewards and punishments, shall hold any office in the civil department of this nation, nor shall he be allowed his oath in any court of justice.

SECTION 20: The treasurer of this nation, together with all other person who may be entrusted with public money, shall be required to give such bond and security as may be prescribed by law.

SECTION 21: No laws of a general nature, unless otherwise provided for, shall be enforced until sixty days after the passage thereof.

SECTION 22: No money shall be drawn from the treasury but in consequence of an appropriation made by law, and accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws, at every regular session of the general council.

SECTION 23: That all the provisions of the constitution, now in existence, and no revised or adopted by this constitution, are hereby declared null and void, and that any law which may be passed contrary to the provisions herein specified shall be null and void, and all rights and powers not herein granted or expressed shall be reserved unto the people.

SECTION 24: Divorces from bonds of matrimony shall not be granted but in cases provided for by law.

## **ARTICLE VIII.**

### **MILITIA**

SECTION 1: The general council shall provide 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 2: Officers of the militia shall be elected or appointed in such manner as the general council shall from time to time direct, and shall be commissioned by the principal chief.

SECTION 3: The principal chief shall have the power to call forth the militia to execute the laws of the nation, to suppress insurrections and repel invasion.

## **ARTICLE IX.**

### **MODE OF AMENDING AND REVISING THE CONSTITUTION.**

SECTION 1: Whenever a majority of the members of the general council assembled shall deem it necessary, they may propose an amendment or amendments to this constitution, which amendment shall be submitted by the nation's secretary, at least four months preceding the next regular election, at which time the qualified voters shall vote directly for and against such proposed amendment, or amendments, and if it shall appear that majority of the qualified voters shall have voted in favor of such amendment or amendments, then the amendment or amendments shall may be incorporated as a part of this constitution at the next succeeding general council.

SECTION 2: And if at any time two-thirds of the senate and the House of Representatives shall think it necessary to revise and change this entire constitution, they shall recommend to the electors, at the next election for the members of the general council, to vote for or against the convention, and it shall appear that a majority of the electors voters at such elections, have voted in favor of calling a convention, the general council shall, at its next session, provide by law for calling a convention, to be held within six months after the passage of such law, and such convention shall consist of delegates equal to the number of member of members in the House of Representatives of the general council.

## **ARTICLE X.**

### **SCHEDULE**

SECTION 1: All matters now pending in the several courts of this nation shall be transferred in such courts, as may have proper jurisdiction thereof under this constitution.

SECTION 2: All rights, prosecutions, claims, or contracts, as well of individuals as bodies corporate, and laws now in force at the time of the adoption of this constitution, and on inconsistent therewith, until altered or repealed by the general council, shall remain in full force.

SECTION 3: Any special appointments or contracts heretofore made and approved under existing laws or resolutions of the general council, shall be approved by the principal chief of this nation, and the appointers commissioned, and contracts so made ratified by him.

SECTION 4: In order that no inconvenience may result to the public service, from the taking effect of this constitution, no office shall be suspended, nor any laws relative to the duties thereof be changed or abrogated, until the officers elected and appointed under this constitution shall be duly qualified and enter upon their respective duties.

SECTION 5: Immediately after the governor of this nation shall made proclamation that this constitution is ratified by the people, then it shall be the duty of the president of the convention to give notice forthwith to all probate judges in this nation, directing them to hold an election on the first Wednesday in August A.D. 1860, for a principal chief and all other officer, district and county, provided for in this constitution, to be conducted in the manner prescribed by the existing election laws, should there be any vacancy, however, in the office to order the said election.

SECTION 6: The returns for the elections above directed shall be sent sealed to the president of the convention, who shall open and publish the same, giving certificates to those whom the returns show to be chosen for the various officers, the returns for the principal chief shall be transmitted as the constitution directs.

SECTION 7: The president of this convention shall call to his assistance two or more competent persons to aid him in making out the returns of the said election.

SECTION 8: In the event the president of this convention shall die then the returns of the elections for principal chief and other officers, shall be transmitted to the national secretary, who shall proceed as in the manner above directed.

SECTION 9: Until appointment shall be made by law, in pursuance of this constitution, for the election of senators, the counties of three districts, and severally, shall elect a senator or senators for members of the general council as follows:

In Apuckshunnubbee District:

Townson County One Senator

Cedar County

Wade County One Senator

Red River County

Bokluckla County One Senator

Eagle County

Nashoba County One Senator

In Pushmataha District:

Kiamichi County One Senator

Blue County One Senator

Atoka County One Senator

Jack's Fork County One Senator

In Moshalatubbee District:

Sugar Loaf County One Senator

Skullyville County One Senator

Sans Bois County One Senator

Gaines County

Tobucksy County One Senator

SECTION 10: The first election for members to the house of representatives, under this constitution, shall consist of a number of members equal to the appointment under existing laws.

George Hudson, President of the Convention

W. A. Durrel, Clerk

Delegates of the Convention:

Forbis Leflore Stephen Holson

L. P. Pitchlynn S.P. Willis

Ellis W. Folsom Alfred Shong

Wm. McCoy Pliny Fisk

Joseph Dukes Simon Conkill



Wm. S. Patton Pistambee

Edmond Gardner Peter Watson (his x mark)

Joseph P. Folsom Daniel Miller

John Picken (his x mark) Adam Nail

Davis King

## **AMENDMENTS TO THE 1860 CONSTITUTION**

### **OF THE CHOCTAW NATION**

SECTION 1: The national secretary, national treasurer, national auditor, and national attorney shall be elected by qualified electors of this nation, who shall hold their offices for the term of two years, and until their successors are elected and qualified, unless sooner removed; and they shall perform such duties as may be prescribed by law.

SECTION 2: The seat of government shall be permanently fixed at or about two and one-half miles east of old Nanih Waiya, and shall be called and known as Tushkahumma, and the first and all future sessions of the general council shall commence on the first Monday in October, 1884, and each and every year thereafter, and shall be held at the Tushkahumma aforesaid.

### **THE UNITED STATES OF AMERICA**

To all to whom these Presents shall come. Greetings:

WHEREAS, By the second article of the treaty, began and held at Dancing Rabbit Creek, of the fifteenth day of September, in the year of our Lord One Thousand Eight Hundred and Thirty, (as ratified by the senate of the United States, on the 24<sup>th</sup> of February, 1831) by the commissioners on the part of the United States, and the Mingoes, Chiefs, captains, and warriors of the Choctaw Nation, on the part of said nation, it is provided that "The United States, under a grant specially to be made by the president of the United States, shall cause to be conveyed to the Choctaw nation, "a tract of country west of the Mississippi River, in fee simple, to them and their descendants, to inure to them while they shall exist as a nation, and live on it: 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, and down Red River to the west boundary of the territory of Arkansas; thence north along that line to the beginning. The boundary of the same to be agreeably to the treaty made and concluded at Washington City in the year 1825.

Now Know Ye. That the United States of America, in consideration of the premises, and in execution of the agreement and stipulation in the aforesaid treaty, have given and granted, and by these presents do give and grant, unto the said Choctaw Nation, the

aforesaid "Tract of country west of the Mississippi;" to have and to hold the same, with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, as intended "to be conveyed" by the aforesaid article, "in fee simple to them and their descendants, to inure to them, while they shall exist as a nation and live on it" liable to no transfer or alienation, except to the United States, or with their consent.

In testimony whereof, I, John Tyler, president of the United States of America, have caused these Letters to be made Patent, and Seal of the General Land Office to be hereunto affixed. Given under my hand at the City of Washington, the twenty-third day of March, in the year of Our Lord One Thousand Eight Hundred and Forty-two, and of the Independence of the United States the Sixty-Sixth.

By the president - -

JOHN TYLER.

DAN'L WEBSTER, Secretary of State,

JOHN C. SPENCER, Secretary of War,

T. HARTLEY CRAWFORD,

Commissioner of Indian Affairs.

Recorded. Volume 1, Page 43.

J. WILLIAMSON,

Recorder of the General Land Office.

Executed in the Bureau of Typographical Engineers.

JOHN J. ALBERT,

Col. Corps T. Engineers.

Returned to the war department for the Choctaw Nation

March 24<sup>th</sup>, 1842.

[L.S.] E.M. HUNTINGTON,

Commissioner of the General Land Office

I hereby certify that the foregoing and above transcript is a true and correct copy from the original patent, now on file in my office.

In witness hereto I have affixed the seal of the Choctaw Nation, This January 26<sup>th</sup>, 1886.

[SEAL] THOMPSON McKINNEY,

National Secretary, Choctaw Nation.