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CONSTITUTION

AND

CIVIL AND CRIMINAL CODE

OF THE

MUSKOCHEE NATION,

APPROVED AT THE

COUNCIL GROUND MUSKOCHEE NATION,

OCTOBER 12, 1867.



WASHINGTON, D. C.

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1868.

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CONSTITUTION

OF THE

MUSKOCHEE NATION.

IN order to form a more perfect union, establish justice, and secure to ourselves and our children the blessings of freedom and liberty, We, the people of the Muskochee Nation do adopt this Constitution :

ARTICLE I.

SEC. 1. The Law-making power of this Nation shall be lodged in a Council to consist of two houses, namely: a house of Kings and a house of Warriors.

SEC. 2. Each Town shall be entitled to one member for the house of Warriors, and an additional member for every two hundred persons, who shall be elected for the term of four years, by the vote of their respective Towns.

SEC. 3. Each Town shall be entitled to one member for the house of Kings, who shall be elected for the term of four years, by the vote of their respective Towns.

SEC. 4. Each member of both houses shall receive a compensation out of National Treasury to be provided for by law.

SEC. 5. A majority of each house shall constitute a quorum to do business, and a less number may adjourn from day to day and compel the presence of the absentees.

SEC. 6. Each house shall judge of the returns and qualifications of its members, impeach a member for disorderly conduct, and by the concurrence of the two-thirds of both

houses expel a member. Neither house shall adjourn for a longer period than two days without the consent of both houses.

SEC. 7. The house of Warriors shall elect its own Speaker.

SEC. 8. The house of Kings shall elect its own President.

SEC. 9. Each house shall choose its own Secretary, whose pay shall be provided for by law; and terms of service to continue at the discretion of the houses.

SEC. 10. No person shall be chosen to either of these houses who shall not be an acknowledged citizen, and who shall not have attained to the age of twenty-two years.

ARTICLE II.

SEC. 1. There shall be one Principal Chief, to be styled the Principal Chief of the Muskokee Nation, who shall be elected by a majority of the votes of the male citizens of the Muskokee Nation who shall have attained to the age of eighteen years, for the term of four years. There shall also be a Second Chief, who shall be chosen in the same manner as that prescribed for the election of Principal Chief for the same term, who, in case of the death, resignation, or removal from office of the Principal Chief, shall perform all the duties of that office.

SEC. 2. No person shall be eligible to the office of Principal or Second Chief of the Muskokee Nation who is not a recognized citizen of the same, and who shall not have attained to the age of thirty years.

SEC. 3. The Principal Chief is hereby invested with the repleiving and pardoning power. He shall see that all the laws of this Nation are faithfully executed and enforced, and also it shall be the duty of the Principal Chief to make an annual report to the National Council of the condition of affairs in the Muskokee Nation, and to recommend such measures as may be deemed necessary for the welfare of the Nation; and for any neglect of duty he shall be subject to impeachment, trial, and removal from office.

SEC. 4. Whenever any bill or measure shall pass both

houses, before it become a law it shall be submitted to the Principal Chief for his approval or rejection. If he shall approve it, it shall become a law. If, however, he shall object to it, he shall return the bill to the house in which it originated, within five days, accompanied with his objections; but if not returned within five days it shall become a law. If, however, any bill shall be passed over his veto by a two-third vote in both houses, it shall become a law.

SEC. 5. When any bill shall pass both houses, and is submitted to the Principal Chief for approval or rejection, and he not having time to return the same within five days on account of adjournment, he shall be allowed three days in the next council within which to return the same.

ARTICLE III.

SEC. 1. The supreme law-defining power of this Nation shall be lodged in a high Court, to be composed of five competent persons, who shall be chosen by the National Council for the term of four years.

SEC. 2. This Court shall meet on the first Monday in October of each year, and shall have power to try all cases where the issue is for more than one hundred dollars.

SEC. 3. No one shall be eligible to a position in this Court but a recognized citizen of the Muskokee Nation who shall have attained to the age of twenty-five years, and a majority of these officers being present, shall form a quorum to do business, whose pay shall be provided for by law.

ARTICLE IV.

SEC. 1. The Muskokee Nation shall be divided into six districts, and each district shall be furnished with one company of Light Horsemen, whose compensation shall be provided for by law.

SEC. 2. Each company shall consist of one officer and four privates.

SEC. 3. These officers shall be elected for the term of two years, by the vote of their respective districts.

ARTICLE V.

SEC. 1. There shall be one Judge chosen by the National Council for the term of two years in each district, who shall try all cases in his district, civil and criminal, when the issue does not exceed one hundred dollars.

SEC. 2. These Judges shall have the right to summons in criminal cases twenty-four disinterested men, out of which number twelve men shall be selected for the trial of criminals, and a jury of nine men for the trial of civil cases.

SEC. 3. Each juror failing to obey a summons without good reasons therefor, shall be fined the sum of five dollars, and each juror shall receive one dollar per diem while in service.

SEC. 4. That company of Light Horsemen in his district shall be subservient to his orders.

SEC. 5. Each district Judge shall be allowed a clerk during the session of Court, whose pay shall be provided for by law.

SEC. 6. There shall be one Prosecuting Attorney in each district, to be appointed by the Principal Chief, by and with the consent of the National Council.

SEC. 7. It shall be the duty of the Prosecuting Attorney to indict and prosecute all offenders against the laws in his respective district, and for each and every convict he shall be paid the sum of twenty-five dollars.

ARTICLE VI.

All cases shall be tried according to the provisions of the respective laws under which they originated.

ARTICLE VII.

All persons shall be allowed the right of counsel.

ARTICLE VIII.

All bills of impeachment shall originate in the house of Warriors.

ARTICLE IX.

All treaties shall be made by delegates duly recommended by the Principal Chief, and approved by the National Council; and such treaties shall be subject to the ratification of the National Council.

ARTICLE X.

No laws impairing contracts shall be passed, nor laws taking effect upon things that occurred before the enactment of the law, shall be passed.

ARTICLE XI.

There shall be a private secretary allowed the Principal Chief, who shall be compensated out of the National Treasury, as shall be provided for by law—said officer to be selected by the Principal Chief.

ARTICLE XII.

There shall be a National Interpreter, to be elected by the National Council, for the term of four years, whose compensation shall be fixed by law.

ARTICLE XIII.

The style of the action of the Council shall be: "Be it enacted by the National Council of the Muskokee Nation."

ARTICLE XIV.

There shall be one Treasurer for the Muskokee Nation, to be elected by the National Council, for the term of four years, whose duty shall be to receive and receipt for all national funds, and to disburse the same as shall be provided for by law. He shall report the condition of national finances to the National Council at least once every year. He shall be required to bind himself in a bond of five thousand (\$5,000) dollars with good security for the faithful performance and discharge of his duty.

ARTICLE XV.

No moneys shall be drawn from the National Treasury except to carry out appropriations made by the National Council, and when such an appropriation is provided for by law, the Principal Chief shall issue a draft upon the Treasury to meet the provision.

ARTICLE XVI.

All officers of this Government shall be liable to impeachment, trial, and removal from office for neglect of duty.

ARTICLE XVII.

All Treaties shall be the supreme law of the land.

Approved, Council Ground Muskokee Nation, October 12, 1867.

SAMUEL CHECOTE.

OKTAHASARSHAJO, ^{his} ×
mark.

MICCO HUTKEY, ^{his} ×
mark.

PINK HAWKINS, ^{his} ×
mark.

G. W. GRAYSON, *Sec'y.*

CRIMINAL CODE OF LAWS.

1. *Be it enacted by the General Council,* That all cases of murder shall be punishable by death upon conviction.

2. *Be it further enacted,* That the accused shall have a fair and impartial trial, and no one shall sit on any case where he is related to either of the parties by blood or marriage, unless it is by consent of the parties.

3. *Be it further enacted,* That if any person kills another accidentally, or in self-defence, they shall not be punished.

4. *Be it enacted,* That should any person be convicted of rape, he shall, for the first offence, receive fifty lashes; for the second offence, he shall suffer death.

5. *Be it enacted,* That should any person or persons be guilty of stealing, for the first offence he shall receive fifty lashes; for the second offence, one hundred lashes; and for the third offence, he shall suffer death.

6. *Be it further enacted,* That, if any person shall steal property from another, the party thus aggrieved shall recover damages in full.

7. *Be it enacted,* That it shall be unlawful for any women to use medicine calculated to cause infanticide, and any women who may be found guilty of the violation of this law shall receive fifty lashes on the bare back.

CIVIL CODE OF LAWS,

REVISED AND ENACTED BY THE NATIONAL COUNCIL AND
APPROVED BY THE PRINCIPAL CHIEFS.

1. *Be it enacted*, That no person shall receive damages for injuries done their crops unless they have a fence nine rails high, staked and ridged; and when they have lawful fences around their farms and the stock of another individual injures their crops, they shall be entitled to damages, to be assessed by two disinterested persons.

2. *Be it further enacted*, That should any person injure the stock of another while he has not a lawful fence, he or she shall pay such damages as shall be assessed by two disinterested persons.

3. *Be it enacted*, That if any person or persons shall set the woods or prairies on fire, and the fire should damage another individual in person or property, the offenders shall pay such damages as shall be assessed by two disinterested persons.

4. *Be it enacted*, That, if any person of this Nation refuse to pay his or her just debts, it shall be the duty of the Light-Horse Company to proceed and collect the debt out of any effects that may be found in his or her possession.

5. *Be it enacted*, That the last will and testament of any citizen of this Nation shall be valid; and should any citizen of this Nation die without making a will, not having an opportunity to do so, and shall express before two respectable witnesses the manner in which they wish their effects disposed of, it shall be valid; and no will shall be valid unless the testator shall have been in his or her proper mind, and testified to by two respectable witnesses.

6. *Be it further enacted*, That if any person dies without a will, having property and children, it shall be equally divided among them by disinterested persons; and in all cases where there are no children, the nearest relation shall inherit the property.

7. *Be it further enacted*, That no citizen or other persons of this Nation shall bring any claim against a deceased person without two respectable witnesses, who shall have been present at the time the claim was created, or shall hold his or her obligation; in either case, where the deceased has property, it shall be collected, otherwise the claim shall not be good.

8. *Be it further enacted*, That no will shall be valid where it is proven that it was made to avoid the payment of just debts.

9. *Be it enacted*, That the Principal Chief be, and is hereby, authorized to furnish the Creek Agent with the names of white men not entitled to or admitted to citizenship, for their exclusion from the Creek Nation.

10. *Be it further enacted*, That all licensed traders settling in this Nation shall pay a tax of one hundred dollars (\$100) for each and every trading house.

11. *Be it further enacted*, That should any citizen desire to employ a white mechanic, he or she may do so; nevertheless, they shall have no power to retain them after they shall have fulfilled their contract.

12. *Be it enacted*, That in order more effectually to carry into effect the law prohibiting the introduction and vending of ardent spirits, it shall be the duty of the Light-Horse Company to execute the said law to its full extent; to search, find, and spill all the spirituous liquors that may be found in their respective limits, and to collect a fine at the hands of the vender at the rate of four dollars per gallon for all the liquors so spilled.

13. *Be it further enacted*, That if any citizen of this Nation be found guilty of having violated the above law by selling liquors, he or she shall be fined, as provided for above, and

all fines so collected shall be paid into the National Treasury.

14. *Be it enacted*, That it shall be the duty of all persons taking up stray horses to report the same to the Captain of Light-Horse Company, in the section where the stray or estrays are taken up; it shall be the duty of said Captain to appoint suitable persons to take charge of them, and said Captain shall take a description of every and all such horses, and publish the same throughout the Nation.

15. *Be it enacted*, That it shall be unlawful for any stallion to run at large over two years old, and all such may be castrated.

16. *Be it enacted*, That members of each house of the National Council of the Muskokee Nation shall receive (\$4) four dollars per day, during the session of Council, going and coming.

17. *Be it enacted*, That the Principal Chief of the Muskokee Nation shall receive an annual salary of (\$700) seven hundred dollars.

18. *Be it enacted*, That the Second Chief of the Muskokee Nation shall receive an annual salary of (\$500) five hundred dollars.

19. *Be it enacted*, That the Private Secretary of the Principal Chief shall receive an annual salary of (\$200) two hundred dollars.

20. *Be it enacted*, That the clerks of each house shall receive (\$4) four dollars per day.

21. *Be it enacted*, That the National Interpreter of the Muskokee Nation shall receive an annual salary of (\$200) two hundred dollars.

22. *Be it enacted*, That each Supreme Judge of the Muskokee Nation shall receive an annual salary of (\$200) two hundred dollars.

23. *Be it further enacted*, That the Supreme Court is hereby allowed a Clerk, to be appointed by its own action, and for the same term with itself, who shall receive out of the National Treasury a compensation of (\$4) four dollars per day while in actual service. He shall be required to keep a

faithful and accurate record of the proceedings of the said Court.

24. *Be it enacted*, That each District Judge shall receive an annual salary of (\$200) two hundred dollars.

25. *Be it enacted*, That each Prosecuting Attorney shall receive an annual salary of (\$100) one hundred dollars.

26. *Be it enacted*, That each Light-horse Captain shall receive an annual salary of (\$200) two hundred dollars.

27. *Be it further enacted*, That each Private shall receive an annual salary of (\$100) one hundred dollars.

28. *Be it enacted*, That the Treasurer of the Muskokee Nation shall receive an annual salary of (\$300) three hundred dollars.

29. *Be it enacted*, That the election of all officers under the Constitution of the Muskokee Nation shall take place on the first Monday in November, 1867, excepting such elections as are to be made by the National Council.

30. *Be it further enacted*, That the acting Principal Chiefs of this nation shall appoint suitable persons to preside over the elections to be held in each town on the first Monday in November, 1867, before whom the several towns shall cast their votes.

31. *Be it further enacted*, That each voter shall select and call the name for whom he votes, and at the same time the votes for Principal Chief shall be cast, and these persons so appointed shall report the elections to the Acting Chiefs, who shall call a council without delay, and report in public, the result of said election.

32. *Be it enacted*, That all persons whose citizenship is questionable, and all persons wishing to make applications are hereby required to come forward and establish their citizenship, or present their applications within twenty days after the passage of this law.

33. *Be it further enacted*, That it is hereby made the duty of the Principal Chief to call a council for the disposal of such cases within twenty days after the passage of this law.

34. *Be it enacted*, That when any vacancy occurs in any of the branches of this Government, it shall be the duty

of the Principal Chief to issue an order for the filling of such vacancy by the District that he represented or by the body that elected him.

35. *Be it further enacted*, That should there occur a vacancy in the Executive Office of this nation, eight months or less before the expiration of his term, the President of the House of Kings shall perform the duties of that office to the end of the term; but if it is for a longer period than eight months he shall then issue an order for the filling of the vacancy by the popular vote, as provided for by the Constitution.

36. *Be it enacted*, That the members from this nation to the Convention provided for by treaties shall be appointed by the Principal Chief by and with the consent of the National Council, for a term of four years.

37. *Be it further enacted*, That should it become necessary for the National Council to convene in order to have the members to the Grand Council in readiness for said Council, the Principal Chief shall have power to convene the National Council.

38. *Be it enacted*, That the National Council of the Muskokee Nation shall convene on the first Monday in December, 1867.

39. *Be it enacted*, That no person who has been convicted of felony shall be eligible to any office of profit, honor, or trust under this Government.

40. *Be it enacted*, That provisions be made for the printing of the Constitution and Laws of the Muskokee Nation both in Creek and English as soon after the adoption of the same as practicable.

41. *Be it enacted*, That the seat of Government of the Muskokee Nation shall be located at the old Council Ground of the Hit-che-tee Town, on the north side of Deep Fork.

42. *Be it further enacted*, That the Principal Chiefs are hereby empowered to appoint a Committee to select a site on which the Council Houses shall be erected.

43. *Be it enacted*, That an appropriation is hereby made from the General School funds of the Muskokee Nation

of (\$6,000) six thousand dollars for the repair of the Mission School buildings, situated on the North Fork and Arkansas rivers.

44. *Be it enacted*, That the names of six districts in the Muskokee Nation shall be as follows: Oe-wo-ka, Deep Fork, North Fork, Muskokee, Arkansas, and Coweta.

Approved, *October 12, 1867.*

SAMUEL CHECOTE.

OKTAHASARSHAJO, ^{his} ×
mark.

MICCO HUTKEY, ^{his} ×
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