

Constitution of the Cherokee Nation of Oklahoma-Final Draft - 1973

ED. Note: Over the past 31 years many of our elders have stated the 1975 Constitution that Ross O. Swimmer presented to the Cherokee people was not the one that was approved by the Cherokee people and community representatives. We have been looking for this Constitution without luck ever since. Until now, this is the final draft that the people had chosen.

They have been told your crazy this one (swimmers) is the correct Constitution. Take it or leave it. So here is the final constitution of 1973. Chief Keeler stated the two main things that needs to be in the new constitution are; Two houses for legislative branch and Impeachment. Which both are in the final draft 1973. We will publish the rest of this historical draft. Swimmer took a few friends and stripped it to his liking. He took out the two houses for legislative branch and Impeachment. plus he was not 30 years old to run for chief. He changed the age so he could run for chief.

PREAMBLE

We, the people of the Cherokee Nation, in order to preserve and enrich our tribal culture, achieve and maintain a desirable measure of prosperity, insure tranquility and to secure to ourselves and our posterity the blessings of freedom, acknowledging, with humility and gratitude, the goodness of the Sovereign Ruler of the Universe in permitting us so to do, and imploring his aid and guidance in its accomplishment — do ordain and establish this Constitution for the government of the Cherokee Nation.

ARTICLE I

FEDERAL REGULATIONS

SECTION 1. The Cherokee Nation is an inseparable part of the State of Oklahoma and the Federal Union, therefore, the Constitution of the United States is the supreme law of the land.

SECTION 2. The Cherokee Nation shall never enact any law which is in conflict with any State or Federal law.

ARTICLE II

BILL OF RIGHTS

SECTION 1. The judicial process of the Cherokee Nation shall be open to every member of the Cherokee Nation. Speedy and certain remedy shall be afforded under the terms of this Constitution for every wrong and injury to person, property or reputation, wherein said remedy does not conflict with the laws of Oklahoma or of the United States. The Legislature shall prescribe the procedure pertinent thereto.

ARTICLE III

SUFFRAGE

SECTION 1. All members of the Cherokee Nation must be citizens as proven by reference to the Dawes Commission Rolls, including the Delaware Cherokees as of Article II of the Delaware Agreement, dated 8th day of May, 1867 and the Shawnee Cherokees as of Article III of the Shawnee Agreement dated the 9th day of June, 1869.

SECTION 2. Cherokees who are not able to trace their ancestry to the Dawes Commission Rolls may, through the same steps as establishing heirship, legally prove that they are Cherokee citizens.

SECTION 3. There shall be established a Cherokee Registration Book, to be kept by the tribal office, for the registering of the names for any Cherokee who so desires and presents the necessary evidence of the facts.

(a) A Registration Committee shall be established. It shall be the duty of the Registration Committee to consider the qualifications and to determine the validity of the names for those wishing to have their names entered in the Cherokee Register. The Registration Committee shall consist of a registrar and two (2) assistants. All members shall be appointed by the Principal Chief, and confirmed by a majority vote of the Senate.

(b) There shall be a number assigned to every name that is approved and entered into the Cherokee Register. This number shall be preceded by the three words, "Cherokee Registry Number".

(c) The decision of the Registration Committee shall be subject to review by the Tribunal created by Article VII. SECTION 4. All members of the Cherokee Tribe, as stated in Article III, Sections 1 and 2 of this Constitution, shall be eligible to vote and hold office in accordance with the Constitutional requirements. All members of the Cherokee Tribe as stated in Article III, Sections 1 and 2 of the Constitution, except those who are mentally incompetent or have been convicted of a felony shall be eligible to vote and hold office in

accordance with the Constitutional requirements.

ARTICLE IV

DISTRIBUTION OF POWERS

The powers of the government of the Cherokee Nation shall be divided into three (3) separate departments: The legislative, Executive, and Judicial; and except as provided in this Constitution, the legislative, Executive and Judicial departments of government shall be separate and distinct and neither shall exercise the powers properly belonging to either of the others.

**ARTICLE V
LEGISLATIVE**

SECTION 1. The Legislative Department shall consist of two (2) divisions, to be called the Council of the Cherokee Nation (lower house) and the Senate of the Cherokee Nation (upper house).

SECTION 2. Each Division of the Legislative Department shall establish its own rules for its credentials, decorum and procedure.

Section 3. The Senate shall consist of two (2) members from each County and the Council will consist of three (3) members from each County to be chosen by the qualified electors in their respective Counties for the following terms: Two (2) years Council; Four (4) years Senate. The elections will be held in the respective Counties every two (2) years at such times and places as may be directed by law. The initial candidates for Senate from the following Counties shall serve for two (2) years; Adair, Cherokee, Delaware, Sequoyah, Mayes, Ottawa and Craig, and the Senators from the following Counties shall serve for four (4) years: Muskogee, Wagoner, Rogers, Nowata, Washington, Tulsa, and McIntosh. After the first election, all Senators will be elected for a full four (4) year term. The Legislature may reapportion but may not reduce the number of Senators or Representatives from each County. This procedure with that be in accordance with that procedure prescribed by the Oklahoma Legislature for its reapportionment.

SECTION 4. There shall be at least one regular meeting of the Legislative Department in the calendar year which shall convene on the second Monday in each January. The session may not exceed a maximum of thirty (30) calendar days for pay purposes.

SECTION 5. Special meetings of the Legislative Department may be called: (A) by the Principal Chief, (B) by the Deputy Principal Chief when he has the full powers of the Principal Chief as elsewhere defined, (C) upon written request of fifty-one percent (51 percent) of the active and functioning members of the Legislative Department, or (D) upon the written request of ten percent (10 percent) of the registered and qualified voters of the Cherokee Nation. The purpose of said meeting shall be stated and the Legislature may not consider any other subject not within the purposes. No special meetings may convene until thirty (30) days have elapsed after the adjournment of a prior meeting.

SECTION 6. All meetings of the Legislative Department and of its committees shall be open to the public except (A) when the discussion shall concern employment, retention, or discharge of personnel, (B) when the question of the moral turpitude of any member of the Tribe is discussed, or (C) when the decorum of the audience shall prejudice orderly administration of business. In the event that consideration of a subject shall take place in Executive Session, the vote shall take place in an open meeting.

SECTION 7. No person who shall have been convicted of a felony under the laws of the United States of America, or any State or Territory thereof, Shall be eligible to any office or appointment of honor, profit or trust within this Nation. The Principal Chief, Deputy Chief and all officers shall be liable to impeachment, but judgment in such cases shall not extend further than removal from office and disqualification to hold an office of honor, trust or profit under this Constitution or any law pursuant thereto.

SECTION 8. The Legislature shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution.

SECTION 9. No laws passed by the Legislature shall have retroactive effect of operation.

SECTION 10. The legislature shall have the sole power of impeachment and said impeachment must be conducted in accordance with Article IX of this Constitution.

SECTION 11. Members of the Legislative Department and all Executive Officers shall be bound by oath, provided in Article XI, to support the Constitution of the Cherokee

Nation, the Constitution of the State of Oklahoma and the Constitution of the United States of America, do everything within the individual's power to promote the culture, heritage and traditions of the Cherokee Nation and to perform the duties of their respective offices with fidelity.

SECTION 12. Every bill which shall have passed the Senate and Council and every resolution requiring the assent of both branches of the Legislature, shall, before it becomes a law, be presented to the Principal Chief; if he approves, he shall sign it, if not, he shall return it with his objections to the house in which shall enter the objections at large in the Journal and proceed to reconsider it. If, after such reconsideration, two-thirds (2-3) of the members elected to that house shall agree to pass the bill or joint resolution, it shall be sent, together with the objections to the other house, by which, it shall likewise be reconsidered; and, if approved by two-thirds (2-3) of the members elected to that house, it shall become a law, notwithstanding the objections of the Principal Chief. In all such cases, the vote in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the Journal of each house respectively. If any bill or resolution shall not be returned by the Principal Chief within five (5) days (Sundays and holidays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent the return, in which case, it shall not become a law without the approval of the Principal Chief, No bill shall become a law after the final adjournment of the Legislature, unless approved by the Principal Chief within fifteen (15) days after such adjournment.

SECTION 13. Elections; For the purpose of this Constitution, the Cherokee Nation will follow its present method and procedures for purposes of conducting its elections.

SECTION 14. The Legislative Branch will recognize and act on the request from the Principal Chief for the establishment or deletion of departments within the Executive branch, where the Legislature has such power under the provisions of Article VIII.

ARTICLE VI

EXECUTIVE

SECTION 1. The executive power shall be vested in a Principal Chief, who shall be styled "The Principal Chief of the Cherokee Nation", The Principal Chief shall hold his office for the term of four (4) years; and shall be elected by the qualified voters on the same day and in the same manner as they shall respectively vote for members of the Legislature that particular year.

The returns of the election for the Principal Chief shall be sealed and directed by the lawfully appointed election officials to the Secretary-Treasurer, who shall, immediately after the organization of a house, and before proceeding to other business, open and publish the same in the presence of a majority of each branch of the Legislature, who shall for that purpose, assemble in place of the Council. The person having the highest number of votes shall be the Principal Chief; but if two (2) or more shall be equal and highest in votes, one of them shall be chosen by a joint vote of both branches of the Legislature. The manner of determining contested elections shall be directed by law.

SECTION 2. No person except a natural born citizen shall be eligible for the office of Principal Chief; neither shall any person be eligible to that office who shall not have attained the age of thirty (30) years.

SECTION 3. The qualified electors shall elect a Deputy Principal Chief who shall have attained the age of thirty (30) years, for a term of four (4) years at the time and in the same manner as herein provided for the election of the Principal Chief.

SECTION 4. In case of the absence of the Principal Chief from office due to his death, resignation, removal or inability to discharge the powers and duties of the said office, the same shall devolve upon the Deputy Principal Chief for the remaining portion of the four (4) year term to which the Principal Chief has been elected.

SECTION 5. The Legislature may, by law, provide for the case of removal, death, resignation or disability of both the Principal Chief, declaring what officer shall then act as Principal Chief until the disability be removed or the Principal Chief shall be elected.

SECTION 6. The Principal Chief and Deputy Chief and Deputy Principal Chief shall, as stated times, receive for their services a compensation

which shall neither be increased nor diminished during the period for which they shall have been elected. SECTION 7. Before the Principal Chief enters on the execution of his office, he shall take the oath of affirmation as provided for in Article XI.

SECTION 8. The Principal Chief may on extraordinary occasions convene the Legislature at the seat of government pursuant to such notice and other laws as may be prescribed by the Cherokee Legislature. The purpose of said session must be stated and the Legislature may consider only such matters as are related to it. Before the extraordinary session may be legally sufficient, a majority of both houses must be present.

SECTION 9. At every session of the Legislature and immediately upon its organization, the Principal Chief shall communicate by message, delivered to the joint session of the two (2) Houses of the Legislature, upon the condition of the Cherokee Nation; and shall recommend such matters to the Legislature as he shall judge expedient.

SECTION 10. The Principal Chief shall cause the laws of the Cherokee Nation to be faithfully executed, and shall conduct in person in such manner as shall be prescribed by law, all intercourse and business of the Cherokee Nation. The Principal Chief may cause to be formed and operated, trusts, whose beneficiary shall be the Cherokee Nation and these trusts shall be granted such powers as provided by law for public trusts. These trusts, however, must be approved by a majority vote of both houses of the Legislature.

SECTION 11. The Deputy Principal Chief shall, by virtue of his office, aid and advise the Principal Chief in the administration of the government and shall be President of the Senate but shall vote only for the purpose of breaking a tie vote.

SECTION 12. In case of disagreement between the two (2) branches of the Legislative Department with respect to the time of adjournment, the Principal Chief shall have power to adjourn the same to such time as he shall deem proper; provided that it be not beyond the next constitutional meeting thereof.

SECTION 13. There shall be a cabinet to be composed of five (5) persons to be appointed by the Principal Chief and approved by the Cherokee Senate as provided for in Article VIII. Nothing in this Constitution shall be construed as preventing the Principal Chief from appointing such administrative assistants as he deems proper.

ARTICLE VII

JUDICIAL

There is hereby created a Judicial Appeal Tribunal composed of three (3) members appointed by the Principal Chief and approved by the Senate. The purpose of this tribunal shall be to hear aggrievements arising under any provision of this Constitution or any statute or measure enacted by the Legislature. The Legislature shall provide for a procedure which shall insure that the appellant receives due process of law and prompt and speedy relief and shall closely follow that portion of the Oklahoma Statutes known as the Administrative Procedures Act, Title 75, Oklahoma Statutes, S 301 et seq. The decisions of the Judicial Appeal Tribunal shall be final.

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ARTICLE VIII

CABINET

There shall be a cabinet composed of the following persons: Secretary-Treasurer Department of Health, Education, and Welfare Department of Commerce and Industrial Development General Counsel Department of Communications.

These persons shall be appointed by the Principal Chief and approved by the Cherokee Senate. The Senate, on recommendation of the Chief only, may create additional cabinet positions and departments. The Legislature shall prescribe their duties and responsibilities. Persons mentioned herein shall be authorized to appoint such staff and other assistants as they deem necessary. Nothing in this Constitution shall be construed as preventing the Principal Chief from appointing such administrative assistants as he deems proper.

ARTICLE IX

IMPEACHMENT AND REMOVAL FROM OFFICE

SECTION 1. The Principal Chief, the Deputy Principal Chief, and other elective officers shall be liable and subject to impeachment for willful neglect of duty, corruption in office, habitual drunkenness, incompetency or any offense involving moral turpitude committed while in office.

SECTION 2. All elective officers, not liable to impeachment, shall be subject to removal from office in such manner and for such causes as may be provided by law.

SECTION 3. When sitting as a Court of Impeachment the Senate shall be presided over by one of its members elected as a presiding officer for such purpose. The Council shall present all impeachments.

SECTION 4. When the Senate is sitting as a Court of Impeachment, the Senators shall be on oath, or affirmation, impartially to try the party charged, and no person shall be convicted without the concurrence of two-thirds (2-3) of the Senators present.

SECTION 5. Judgment of impeachment shall not extend beyond removal from office, but this shall not prevent punishment of any such officer on charges growing out of the same matter by a civil court of competent jurisdiction.

SECTION 6. The Legislature shall pass such laws as are necessary for carrying into effect the provisions of this Article.

**ARTICLE X
EMPLOYEE RIGHTS**

No employee who having served in a position at least one (1) year, shall be removed from the employ of the Cherokee Nation except for cause. The employee shall be given a hearing by a Judicial Appeals Tribunal under such rules and procedures as may be prescribed by the Legislature. These rules and procedures, however, must follow, as near as practicable, the provisions of the Oklahoma Administrative Procedures Act, Title 75, Oklahoma Statutes, s301 et seq.

**ARTICLES XI
OATH**

SECTION 1. All officers selected or appointed shall, before entering upon the duties of their respective offices, take and subscribe to the following oath or affirmation:

"I do solemnly swear, herefrom, that I will faithfully execute the duties of _____ of the Cherokee Nation, and will, to the best of my ability preserve, protect, and defend the Constitution of the Cherokee Nation, the State of Oklahoma and the United States of America. I swear and affirm further, that I will do everything within my power to promote the culture, heritage and traditions of the Cherokee Nation." SECTION 2. The foregoing oath shall be administered by any person authorized by the Legislature to administer oaths. The oath shall be filed in the Office of Secretary-Treasurer.

**ARTICLE XII
CLANS**

Nothing in this Constitution shall be construed to prohibit the right of any Cherokee to belong to a recognized clan or organization in the Cherokee Tribe.

**ARTICLE XIII
INITIATIVES AND REFERENDUM**

SECTION 1. Notwithstanding the provisions of Article V, the people reserve to themselves the power to propose laws and amendments to the Constitution and to enact or reject the same as the polls independent of the Legislature, and also reserve power at their own options to approve or reject at the polls any act of the Legislature.

SECTION 2. Any amendment or amendments to this Constitution may be proposed in either branch of the Legislature, and if the same shall be agreed to by a majority of all members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered in their journals and referred by the Secretary-Treasurer to the people for their approval or rejection, at the next regular general election, except when the Legislature, by two-thirds vote of each house, shall order a special election for that purpose. If a majority of all the electors voting at such election shall vote in favor of any amendment thereto, it shall thereby become a part of this Constitution.

SECTION 3. The first power reserved by the people is the initiative, and ten per cent um of the legal voters shall have the right to propose any Legislative measure, and fifteen per centum of the legal voters shall have the right to propose amendments to the Constitution by petition, and every such petition shall include the full text of the measure so proposed. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety), either by petition signed by five per centum of the legal voters or by the Legislature as other bills are enacted. The ratio and per centum of legal voters hereinbefore stated shall be based upon the total number of votes cast at the last general election for the office receiving the highest number of votes at such election. No person shall be permitted to vote or hold office either elective or appointive who shall have been convicted of a felony or misdemeanor involving moral turpitude nor a person who has been adjudged legally incompetent to transact business in the state or territory of his residence.

SECTION 4. Referendum petitions shall be filed with the Secretary-Treasurer not more than ninety (90) days after the final adjournment of the Legislature which passed the bill on which the referendum is demanded. The veto power of the Principal Chief shall not extend to measures voted on by the people. All elections on measures referred to the people of the Cherokee Nation, except when the Legislature or the Principals Chief shall order a special election for the express purpose of making such reference. Any measure referred to the people by the initiative shall take effect and be in full force when it shall have been approved by a majority of the votes