

where the travellers pass. They very often call to stay all night. I help Mother to take care of my Brothers and sisters. My Father works in the field. Mother spins and weaves.

NANCY REECE

Letter to Reverend Fayette Shepherd

December 25, 1828

I will tell you something of our happy school, so you may know how we shall feel if we should be separated from each other, and from our teachers and other missionaries. Miss. Ames has twenty-nine scholars one more is expected which will make the school full. The studies in our school are Reading, Spelling, Writing, Geography, Arithmetick, two have begun to study grammar. Eight new scholars have entered school this year. Part of them cannot talk english, and Miss Ames is obliged to have me interpret for her. I have a class of the younger children in Sabbath school. I ask those children who do not talk english if they understood the sermon that was read and they say they do not but when my father comes on sabbath days he talks in Cherokee. Then they tell me a great [deal] he says. I try to tell them how to spend the sabbath day and tell them where they will go when they die if they are not good. When they first enter school if they are asked these questions, they often say they don't know.

When school hours are over, the girls attend to domestick concerns and learn to make their own clothes and the clothes of the boys so they can do such work when they go home, to assist their parents. They can then take care of their houses and their brothers and sisters and perhaps can learn their parents something that they do not understand.

We have a society on Saturdays we work two hours to try to get some money for the heathen who have not had missionaries as we have. Miss Sargent generally comes in and reads to us.

The boys chop wood and in the summer help about the farm and some that have left school are learning the black smiths trade. Miss Sargent goes into their school room evenings to teach them, and sometimes they set with her in her room. . . .

I do not think that all the people are friends to the Cherokees. Miss. Ames has been reading a part of the Presid. message. Perhaps he does not like the laws of the Indian tribes for he says "This state of things requires that a remedy should be provided." Miss. Ames has been talking to the scholars and she felt bad and told them that they must get a good education soon as they can, so they can teach if they should be removed where they could not attend school and says that we must try to get religion for all the instructors ought to be christians. It seems that it will be a trying season to us and the missionaries if we should be separated from them, but she says if God suffers it to be, we ought not to complain, for it will be for the best. I have been talking to the children about it and one says "if the white people want more land let them go back to the country they came from," another says "they have got more land than they use, what do they want to get ours for?"

QUANTIFYING CHEROKEE "CIVILIZATION"

In 1835 the United States government commissioned an accounting of Cherokees east of the Mississippi, their property and productivity, and their skills. The Census of 1835 contains the names of 2,637 Cherokees whom the census taker assumed to be the heads of households. The census recorded a total of 16,542 Cherokees, of whom 77.27 per cent were "full blooded," 201 intermarried whites, and 1,592 African American slaves. These people cultivated 44,000 acres and raised well over half a million bushels of corn. Slightly more than half the households in the Nation had at least one reader of Cherokee, while 18 per cent had an English reader. The census entries printed here represent only a tiny fraction of the total number of Cherokees listed on the census.

These particular people lived in the Long Savannah community of what became Hamilton County, Tennessee. This community was typical of most in the Cherokee Nation. Wealthy Cherokees like James Vann lived near much poorer Cherokees, and people with no Anglo-American ancestry lived in the same community with intermarried whites and their descendants. Long Savannah had slaveholders and nonslaveholders, farmers and craftsmen, people who were literate and those who were not. In other words, however economically stratified and culturally divided the Cherokees had become by 1835, few Cherokees lived in isolation from those who had different values and life-



Figure 4. *Vann House, Spring Place, Georgia.*

James Vann built this elegant, red brick house about 1804. In 1834, Georgians seized the house as well as cabins, barns, mills, smokehouses, corncribs, a blacksmith shop, and eight hundred cultivated acres because Joseph Vann, the builder's son and heir, hired a white overseer in violation of Georgia law. The house still stands; it is publicly owned and welcomes visitors.

Source: Photo by James R. Lockhart, Georgia Department of Natural Resources, Historic Preservation Division.

styles. As you examine the census, pay particular attention to the relationship between variables—for example, slave ownership and agricultural productivity.

A census can give us more than merely statistical information. For example, the designer of this census thought that enumerating the amount of wheat a person grew was important, yet in the Long Savannah community only Adam Seabolt produced any. Everyone else who farmed grew corn. The remainder of the census follows this pattern. Why was wheat production included as a variable, and what can this tell us about the Cherokees? Missionaries and other promoters of

"civilization" encouraged the Cherokees to grow wheat because they considered wheat, the grain most widely grown in Europe, to be a "civilized" crop and far preferable to corn, a grain native to the Americas. The vast majority of Cherokees, including descendants of Europeans, and intermarried whites clearly disagreed. The cultivation of wheat by a few people like Seabolt, however, may reflect their acceptance of Anglo-American culture and "civilization."

The census also reveals Anglo-American attitudes about the proper role of women. Five members of the Long Savannah community listed as heads of household were women—Lizy Ratley, Ootiah, Peggy Waters, Polly Gritts, and Betsey Goins. Ootiah and Polly Gritts had three acres each under cultivation while Betsey Goins cultivated twenty-two acres. They produced sixty, fifteen, and one hundred bushels of corn, respectively. Nevertheless, the census suggests that no farmers over eighteen, a separate category on the census, lived in their households. The households of Ootiah and Polly Gritts included males under eighteen, but only another adult woman lived with Betsey Goins. Could it be that the census taker simply refused to acknowledge women farmers? Perhaps so. Anglo-Americans in the nineteenth century believed that a woman's proper place was in the home, not the field. The "cult of domesticity," as this belief is sometimes called, may have blinded the census taker to the traditional Cherokee practice of women farming. The farmers counted on the census are men; the weavers and spinners are women.

Several categories need further explanation. "Houses" is ambiguous. Presumably this includes not only dwellings but barns, stables, springhouses, smokehouses, corncribs, and other structures.

The Long Savannah community had no mill, but Alex Drumgolds operated one on nearby Candy's Creek, and so people may have had lumber sawn or grain ground there. Or they may have used logs for construction and pounded their corn with traditional mortars and pestles.

Ferryman such as William Reese were essential to commerce because streams and rivers cut across the Cherokee Nation and no bridges existed. The National Council awarded contracts to operate ferries.

"Mechanics" were skilled craftsmen such as blacksmiths, carpenters, or manufacturers of saltpeter, an essential component of gunpowder.

The "Readers in Cherokee" were literate in the Sequoyah syllabary. Most of these people learned to read from parents or neighbors

because mission schools taught English rather than Cherokee. While the emphasis on English literacy reflected a cultural bias, missionaries had little choice: few of them ever mastered the Cherokee language.

The fact that looms are far larger, harder to transport, and more expensive than spinning wheels may explain why "Spinners" outnumbered "Weavers."

The terms "Half-Breed" and "Quadroon" (one-quarter Cherokee) are now considered pejorative as well as ethnocentric. According to the matrilineal Cherokees, whether a person was a Cherokee or not depended on the status of the mother. If your mother was a Cherokee, you were Cherokee regardless of who your father was. Therefore, no one could be "half" Cherokee. In 1825, the Cherokee Council passed a law extending Cherokee citizenship to the children of white mothers and Cherokee fathers, but more than likely, many traditional Cherokees continued to regard these children as white. The concern with blood quantum reflected racist nineteenth-century thinking that linked ancestry and culture. However outdated such views may be, these distinctions remain a part of United States Indian policy today.

The categories on the census appear in a somewhat different (and more logical) order than in the original. The editors have omitted several columns that appear on the original because there were no "Mixed Catawbas," "Mixed Spaniards," "Mixed Negroes," "Reservees" (Indians given personal reservations by the U.S. government), or "Descendants of Reservees" in this community.

Like many Cherokee records, the Census of 1835 is housed at the National Archives in Washington, D.C., and is available on microfilm. If you would like further information, see William G. McLoughlin and Walter H. Conser Jr., "The Cherokees in Transition: A Statistical Analysis of the Federal Cherokee Census of 1835," *Journal of American History* 64 (1977): 678-703.

The Census of 1835

HEAD OF HOUSEHOLD	MALES UNDER 18	MALES OVER 18	FEMALES UNDER 18	FEMALES OVER 18	TOTAL CHEROKEE	MALE SLAVES	FEMALE SLAVES	TOTAL SLAVES	WHITES CONNECTED BY MARRIAGE	HALF-BREEDS	QUADROONS	FULL BLOODED	FARMERS OVER 18 YEARS	MECHANICS OVER 18 YEARS	WEAVERS	SPINNERS	READERS IN ENGLISH	READERS IN CHEROKEE
1. William Reese	1	1			1				1								1	
2. Roman Nose Johnson	2	2	2	1	7				6	1		1	1		1			
3. Turnover	3	2	1	1	6				4	2		2	2	1			1	2
4. Lizzy Ratley	2	5	1	8					8						1	3		
5. Ooyeakee	2	4	3	3	12				6	6		4	4	1	3	4		5
6. Dry	1	2	2	3	8					8		2	2	1	4	4		1
7. Wallace Ratley	1	1	1	1	4				4				1		1	1	1	1
8. Deer Coming	2	2		1	5					5		2	2	2	1	1	1	1
9. Ootiah	3	2	2	7					7								2	
10. Johnson	1	1	1	2					2	1		1	1	1	1	1	1	1

11. Whirlwind	4	3	1	8				8	4	1	1
12. The Hunter	1	3	4	3	11			10	3	1	3
13. Moses	2	1	2	2	5			5	1		1
14. The Dog	2	2	1	3	3			3	2	1	1
15. Peggy Waters	3	1	2	6	6			6	1	2	2
16. The Doctor	2	1	1	5	5			5	1	1	1
17. William Read			1	1	1	1	1	1	1		1
18. Pigeon	1	3	2	4	10			10	3	1	2
19. Big Jim	1	1	1	2	2		1	1	1	1	1
20. Path Killer	2	2	2	4	4			4	2	1	
21. Polly Gritts	1	2	1	4	4		3	1		1	2
22. John Blythe	1	1	2	4	4	1	1	4	1	1	2
23. James Vann	2	1	1	4	4	5	9	4	1	1	2
24. Adam Seabolt	1	2	2	5	1	1		4	1	1	2
25. Betsey Goins			2	2	2			1		1	2
26. Wilson Nivens	3	3	1	7	7	1	1	7	1	1	3

Source: United States. National Archives. Census of 1835. Reference group 75.

The Census of 1835, continued

HEAD OF HOUSEHOLD	FARMS	ACRES IN CULTIVATION	HOUSES	MILLS	FERRY BOATS	BUSHEL WHEAT RAISED	BUSHEL CORN RAISED	BUSHEL WHEAT SOLD	BUSHEL CORN SOLD	FOR HOW MUCH	BUSHEL CORN BOUGHT	FOR HOW MUCH
1. William Reese	1	30	3		1		200					
2. Roman Nose Johnson	1	30	8				300		150	75.00	47	23.00
3. Turnover	1	5	1								30	15.00
4. Lizy Ratley											50	25.00
5. Ooyeakee	1	50	5				400					
6. Dry	1	40	6				450				10	5.00
7. Wallace Ratley	1	15	2				200					
8. Deer Coming	1	15	4				300					
9. Ootiah	1	3	2				60					
10. Johnson	1	4	1									

11. Whirlwind	1	20	2	200	100	50.00
12. The Hunter	1	6	1	50	10	5.00
13. Moses	1	10	4	30		
14. The Dog	1	30	3	450	150	37.50
15. Peggy Waters	1	40	5			
16. The Doctor	1	6	1	30		
17. William Read	1	20	4		100	33.00
18. Pigeon	1	3	2	15	8	4.00
19. Big Jim	1	11	4	200		
20. Path Killer	1	35	7	300	100	50.00
21. Polly Gritts	1	3	1	15		
22. John Blythe	1	55	5	500	150	75.00
23. James Vann	1	100	20	2000	20	9.00
24. Adam Seabolt	1	35	8	350	200	85.00
25. Betsey Goins	1	22	5	100	20	7.50
26. Wilson Nivens	1	100	14	1000	100	50.00

Source: United States. National Archives. Census of 1835. Reference group 75.

THE CHEROKEE CONSTITUTION OF 1827

At its October meeting in 1826, the Cherokee National Council voted to call a convention for the following year to adopt a constitution. Cherokee government had evolved over the previous fifty years from a national council loosely composed of representatives from traditional towns to a formal government with three branches. In separate pieces of legislation over several years, the council created eight electoral districts that sent representatives to its annual meetings, an executive committee that managed national affairs in the interim, and a supreme court that heard appeals from district courts. By 1826, council members apparently thought the time had come to establish a comprehensive governing document. They scheduled an election for delegates, in which only Cherokee men could vote, for May 1827.

Not all Cherokees were happy with the decision to draft a constitution. Cherokee government had become less inclusive, and Cherokee leaders increasingly came from an elite group of wealthy men who promoted acculturation, both in the laws they passed and the ways they lived. The government in which they disproportionately served had limited political participation by moving most decision making from clans and local councils to the National Council. The National Council enacted a number of laws that promoted social change, including reordering descent from matrilineal to patrilineal, abolishing clan vengeance, and discouraging polygamy. With a combination of repressive tactics and conciliatory overtures, the Council ultimately thwarted the opposition, and plans proceeded for the constitutional convention.

The men who convened at New Echota, the Cherokee capital in the summer of 1827, were no more representative of the Cherokees than the United States founding fathers were of Americans. They were more likely to be wealthy, literate, and Christian than the average Cherokee. But like other Cherokees, they were patriots who sought to protect the Nation, its lands, and its sovereignty. They fully understood the symbolism of July 4, the opening day of the convention, and the document they produced exhibited substantial familiarity with not only the United States Constitution but the constitutions of the states as well. Like those documents, the Cherokee constitution reflected a profound belief in republicanism, a representative form of government in which those eligible to vote elected individuals to make laws to protect their life, liberty, and property.

As you read the Cherokee constitution, note the differences as well as the similarities between it and the United States Constitution. In the

Cherokee constitution, Article 1 defined the boundaries of the Cherokee Nation while Article 2 confirmed the common ownership of Cherokee land. Article 4 provided for three counselors elected by the legislature to advise the principal chief and assistant principal chief, a feature that did not separate the executive and legislative branches to quite the extent that the United States Constitution did. What other overlaps between branches do you see? Article 6 is the equivalent of the Bill of Rights, but it does not include all the same provisions as the United States Constitution. What differences can you identify? What does the Cherokee constitution have to say about women and African Americans? What is the relationship between church and state as set forth in this document?

The constitution caused an uproar in Georgia. The governor regarded it as an attempt to legitimize the sovereignty of the Cherokee Nation, which lay largely within the state's boundaries, and demanded that President John Quincy Adams denounce it. Adams insisted that, as an instrument of local government, the constitution did not change the Cherokee Nation's relationship with the federal government and refused to act. The constitution provided Georgia with an additional legal argument to bolster its case, grounded in racism and greed, for Cherokee removal. But it also gave the Cherokees an institutional structure for resisting removal and an elected government to lead the fight. In August 1828, Cherokee voters went to the polls to choose their representatives under the new constitution. For the office of principal chief, they chose John Ross, the man who would guide them through the removal crisis, the rebuilding in the West, and the Civil War.

The Cherokees published several editions of their constitution and laws. This one appeared in *Laws of the Cherokee Nation: Adopted by the Council at Various Periods. Printed for the Benefit of the Nation* (Tahlequah, Cherokee Nation: Cherokee Advocate Printing Office, 1852). The editors have corrected obvious typographical errors. The publisher Scholarly Resources has reprinted the laws and constitutions of many tribes, including the Cherokees; these documents are, therefore, available in many libraries. For more information on the political history of the Cherokees in this period, see William G. McLoughlin, *Cherokee Renascence in the New Republic* (Princeton: Princeton University Press, 1986), and Theda Perdue, "The Conflict Within: The Cherokee Power Structure and Removal," *Georgia Historical Quarterly* 73 (1989): 467-91.

Constitution of the Cherokee Nation

*Formed by a Convention of Delegates
from the Several Districts, at New Echota*

July 1827

We, the representatives of the people of the Cherokee Nation, in Convention assembled, in order to establish justice, ensure tranquility, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty; acknowledging with humility and gratitude the goodness of the sovereign Ruler of the Universe, in offering us an opportunity so favorable to the design, and imploring His aid and direction in its accomplishment, do ordain and establish this Constitution for the Government of the Cherokee Nation.

ARTICLE 1.—Sec. 1.—The boundaries of this Nation, embracing the lands solemnly guaranteed and reserved forever to the Cherokee Nation by the Treaties concluded with the United States, are as follows, and shall forever hereafter remain unalterably the same, to wit:

Beginning on the north bank of Tennessee river at the upper part of the Chickasaw old field, thence along the main channel of said river, including all the islands therein, to the mouth of the Hiwassee river, thence up the main channel of said river, including islands, to the first hill which closes in on said river about two miles above Hiwassee Old Town, thence along the ridge which divides the waters of the Hiwassee and Little Tillico, to the Tennessee river at Tallassee, thence along the main channel, including islands, to the junction of the Cowee and Nanteyalee, thence along the ridge in the fork of said river, to the top of the blue ridge, thence along the blue ridge to the Unicoy Turnpike road, thence by a straight line to the main source of the Chestatee, thence along its main channel, including islands, to the Chattahoochy, and thence down the same to the Creek boundary at Buzzard Roost, thence along the boundary line which separates this and the Creek Nation, to a point on the Coosa river opposite the mouth of Wills creek, thence down along the south bank of the same to a point opposite to Fort Strother, thence up the river to the mouth of Wills creek, thence up along the east bank of said creek to the west branch thereof, and up the same to its source, and thence along the ridge which separates the Tombeccee and Tennessee waters to a point on the top of said ridge, thence due north to Camp Coffee on Tennessee river, which is opposite the Chickasaw Island, thence to the place of beginning.

Sec. 2.—The sovereignty and Jurisdiction of this Government shall extend over the country within the boundaries above described, and the lands therein are, and shall remain, the common property of the Nation; but the improvements made thereon, and in the possession of the citizens of the Nation, are the exclusive and indefeasible property of the citizens respectively who made; or may rightfully be in possession of them; *Provided*, that the citizens of the Nation, possessing exclusive and indefeasible right to their respective improvements, as expressed in this article, shall possess no right nor power to dispose of their improvements in any manner whatever to the United States, individual states, nor individual citizens thereof; and that whenever any such citizen or citizens shall remove with their effects out of the limits of this Nation, and become citizens of any other Government, all their rights and privileges as citizens of this Nation shall cease; *Provided nevertheless*, That the Legislature shall have power to re-admit by law to all the rights of citizenship, any such person or persons, who may at any time desire to return to the Nation on their memorializing the General Council for such readmission. *Moreover*, the Legislature shall have power to adopt such laws and regulations, as its wisdom may deem expedient and proper, to prevent the citizens from monopolizing improvements with the view of speculation.

ARTICLE II.—Sec. 1.—The power of this Government shall be divided into three distinct departments; the Legislative, the Executive, and Judicial.

Sec. 2.—No person or persons belonging to one of these Departments shall exercise any of the powers properly belonging to either of the others, except in the cases hereinafter expressly directed or permitted.

ARTICLE III.—Sec. 1.—The Legislative power shall be vested in two distinct branches; a Committee and a Council, each to have a negative on the other, and both to be styled the General Council of the Cherokee Nation; and the style of their acts and laws shall be.

“RESOLVED by the Committee and Council, in General Council convened.”

Sec. 2.—The Cherokee Nation, as laid off into eight Districts, shall so remain.

Sec. 3.—The Committee shall consist of two members from each District, and the Council shall consist of three members from each District, to be chosen by the qualified electors of their respective Districts, for two years; and the elections to be held in every District on the first Monday in August for the year 1828, and every succeeding

two years thereafter; and the General Council shall be held once a year, to be convened on the second Monday of October in each year, at New Echota.

Sec. 4.—No person shall be eligible to a seat in the General Council, but a free Cherokee male citizen, who shall have attained to the age of twenty-five years. The descendants of Cherokee men by all free women, except the African race, whose parents may have been living together as man and wife, according to the customs and laws of this Nation, shall be entitled to all the rights and privileges of this Nation, as well as the posterity of Cherokee women by all free men. No person who is of negro or mulatto parentage, either by the father or mother side, shall be eligible to hold any office of profit, honor or trust under this Government.

Sec. 5.—The electors and members of the General Council shall, in all cases except those of treason, felony, or breach of the peace, be privileged from arrest during their attendance at election, and at the General Council, and in going to, and returning from the same.

Sec. 6.—In all elections by the people, the electors shall vote *viva voce*. Electors for members to the General Council for 1828, shall be held at the places of holding the several courts, and at the other two precincts in each District which are designated by the law under which the members of this Convention were elected; and the District Judges shall superintend the elections within the precincts of their respective Court Houses, and the Marshals and Sheriffs shall superintend within the precincts which may be assigned them by the Circuit Judges of their respective Districts, together with one other person, who shall be appointed by the Circuit Judges for each precinct within their respective Districts; and the Circuit Judges shall also appoint a clerk to each precinct.—The superintendents and clerks shall, on the Wednesday morning succeeding the election, assemble at their respective Court Houses and proceed to examine and ascertain the true state of the polls, and shall issue to each member, duly elected, a certificate, and also make an official return of the state of the polls of election to the Principal Chief, and it shall be the duty of the Sheriffs to deliver the same to the Executive; *Provided nevertheless*, The General Council shall have power after the election of 1828, to regulate by law the precincts and superintendents and clerks of elections in the several Districts.

Sec. 7.—All free male citizens, (excepting negroes and descendants of white and Indian men by negro women who may have been

set free,) who shall have attained to the age of eighteen years, shall be equally entitled to vote at all public elections.

Sec. 8.—Each house of the General Council shall judge of the qualifications and returns of its own members.

Sec. 9.—Each house of the General Council may determine the rules of its proceedings, punish a member for disorderly behaviour, and with the concurrence of two thirds, expel a member; but not a second time for the same cause.

Sec. 10.—Each house of the General Council, when assembled shall choose its own officers; a majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalty as each house may prescribe.

Sec. 11.—The members of the Committee shall each receive from the public Treasury a compensation for their services which shall be two dollars and fifty cents per day during their attendance at the General Council; and the members of the Council shall each receive two dollars per day for their services during their attendance at the General Council:—*Provided*, That the same may be increased or diminished by law, but no alteration shall take effect during the period of service of the members of the General Council, by whom such alteration shall have been made.

Sec. 12.—The General Council shall regulate by law, by whom and in what manner, writs of elections shall be issued to fill the vacancies which may happen in either branch thereof.

Sec. 13.—Each member of the General Council before he takes his seat, shall take the following oath or affirmation, to wit:

“I, A. B., do solemnly swear, (or affirm, as the case may be,) that I have not obtained my election by bribery, treats or any undue and unlawful means used by myself, or others by my desire or approbation, for that purpose; that I consider myself constitutionally qualified as a member of _____ and that, on all questions and measures which may come before me, I will so give my vote, and so conduct myself, as may in my judgment, appear most conducive to the interest and prosperity of this Nation; and that I will bear true faith and allegiance to the same; and to the utmost of my ability and power observe, conform to, support and defend the Constitution thereof.”

Sec. 14.—No person who may be convicted of felony before any court of this Nation, shall be eligible to any office or appointment of honor, profit or trust within this nation.

Sec. 15.—The General Council shall have power to make all laws and regulations, which they shall deem necessary and proper for the good of the Nation, which shall not be contrary to this Constitution.

Sec. 16.—It shall be the duty of the General Council to pass such laws as may be necessary and proper, to decide differences by arbitrators to be appointed by the parties, who may choose that summary mode of adjustment.

Sec. 17.—No power of suspending the laws of this Nation shall be exercised, unless by the Legislature or its authority.

Sec. 18.—No retrospective law, nor any law impairing the obligations of contracts shall be passed.

Sec. 19.—The legislature shall have power to make laws for laying and collecting taxes, for the purpose of raising a revenue.

Sec. 20.—All bills making appropriations shall originate in the Committee, but the Council may propose amendments or reject the same.

Sec. 21.—All other bills may originate in either house, subject to the concurrence or rejection of the other.

Sec. 22.—All acknowledged Treaties shall be the Supreme law of the land.

Sec. 23.—The General Council shall have the sole power of deciding on the construction of all Treaty stipulations.

Sec. 24.—The Council shall have the sole power of impeaching.

Sec. 25.—All impeachments shall be tried by the Committee;—when sitting for that purpose, the members shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two thirds of the members present.

Sec. 26.—The Principal Chief, assistant principal Chief, and all civil officers, under this Nation, 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. The party whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment and punishment, according to law.

ARTICLE IV.—Sec. 1. The Supreme Executive Power of this Nation shall be vested in a Principal Chief, who shall be chosen by the General Council, and shall hold his office four years; to be elected as follows,—The General Council by a joint vote, shall, at their second annual session, after the rising of this Convention, and at every fourth annual session thereafter, on the second day after the Houses shall be organized, and competent to proceed to business, elect a Principal Chief.

Sec. 2.—No person, except a natural born citizen, shall be eligible to the office of Principal Chief; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years.

Sec. 3.—There shall also be chosen at the same time, by the General Council, in the same manner for four years, an assistant Principal Chief.

Sec. 4.—In case of the removal of the Principal Chief from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the assistant principal Chief, until the inability be removed, or the vacancy filled by the General Council.

Sec. 5.—The General Council may, by law, provide for the case of removal, death, resignation or inability of both the Principal and assistant Principal Chiefs, declaring what officer shall then act as Principal Chief, until the disability be removed, or a Principal Chief shall be elected.

Sec. 6.—The Principal Chief, shall, at 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; and they shall not receive, within that period, any other emolument¹ from the Cherokee Nation, or any other government.

Sec. 7.—Before the Principal Chief enters on the execution of his office, he shall take the following oath, or affirmation; “I do solemnly swear (or affirm) that I will faithfully execute the office of Principal Chief of the Cherokee Nation, and will, to the best of my ability, preserve, protect and defend, the Constitution of the Cherokee Nation.”

Sec. 8.—He may, on extraordinary occasions, convene the General Council at the Seat of Government.

Sec. 9.—He shall from time to time give to the General Council information of the State of the Government, and recommend to their consideration such measures as he may think expedient.

Sec. 10.—He shall take care that the laws be faithfully executed.

Sec. 11.—It shall be his duty to visit the different districts, at least once in two years, to inform himself of the general condition of the Country.

Sec. 12.—The assistant Principal Chief shall, by virtue of his office, aid and advise the Principal Chief in the Administration of the Government, at all times during his continuance in office.

Sec. 13.—Vacancies that may happen in offices, the appointment of

¹Profit.

which is vested in the General Council, shall be filled by the Principal Chief, during the recess of the General Council, by granting Commissions which shall expire at the end of the next Session.

Sec. 14.—Every Bill which shall have passed both Houses of the General Council, shall before it becomes a law, be presented to the Principal Chief of the Cherokee Nation. If he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journals, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, 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 of that house, it shall become a law. If any bill shall not be returned by the Prin'l Chief within five days (Sundays 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 General Council by their adjournment prevent its return, in which case it shall be a law, unless sent back within three days after their next meeting.

Sec. 15.—Members of the General Council and all officers Executive and Judicial, shall be bound by oath to support the Constitution of this Nation, and to perform the duties of their respective offices with fidelity.

Sec. 16.—In case of disagreement between the two houses with respect to the time of adjournment, the Principal Chief shall have power to adjourn the General Council to a such a time as he thinks proper, *provided*, it be not to a period beyond the next Constitutional meeting of the same.

Sec. 17.—The Principal Chief shall, during the sitting of the General Council, attend to the Seat of Government.

Sec. 18.—There shall be a Council to consist of three men to be appointed by the joint vote of both Houses, to advise the Principal Chief in the Executive part of the Government, whom the Principal Chief shall have full power, at his discretion, to assemble; and he, together with the assistant Principal Chief, and the Counsellors, or a majority of them may, from time to time, hold and keep a Council for ordering and directing the affairs of the Nation according to law.

Sec. 19.—The members of the Council shall be chosen for the term of one year.

Sec. 20.—The resolutions and advice of the Council shall be recorded in a register and signed by the members agreeing thereto,

which may be called for by either house of the General Council; and any counsellor may enter his dissent to the resolution of the majority.

Sec. 21.—The Treasurer of the Cherokee Nation shall be chosen by the joint vote of both Houses of the General Council for the term of two years.

Sec. 22.—The Treasurer shall, before entering on the duties of his office, give bond to the Nation with sureties to the satisfaction of the Legislature, for the faithful discharge of his trust.

Sec. 23.—No money shall be drawn from the Treasury, but by warrant from the Principal Chief, and in consequence of appropriations made by law.

Sec. 25.—It shall be the duty of the Treasurer to receive all public monies, and to make a regular statement and account of the receipts and expenditures of all public monies at the annual Session of the General Council.

ARTICLE V.—Sec. 1.—The Judicial Powers shall be vested in a Supreme Court, and such Circuit and Inferior Courts, as the General Council may, from time to time ordain and establish.

Sec. 2.—The Supreme Court shall consist of three Judges, any two of whom shall be a quorum.

Sec. 3.—The Judges of each shall hold their Commissions four years, but any of them may be removed from office on the address of two thirds of each house of the General Council to the Principal Chief, for that purpose.

Sec. 4.—The Judges of the Supreme and Circuit Courts shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office, but they shall receive no fees or perquisites of office, nor hold any other office of profit or any other power.

Sec. 5.—No person shall be appointed a Judge of any of the Courts before he shall have attained to the age of thirty years, nor shall any person continue to execute the duties of any of the said offices after he shall have attained to the age of seventy years.

Sec. 6.—The Judges of the Supreme and Circuit Courts shall be appointed by a joint vote of both houses of the General Council.

Sec. 7.—There shall be appointed in each District, under the Legislative authority, as many Justices of the Peace as it may be deemed the public good requires, whose powers, duties and duration in office, shall be clearly designated.

Sec. 8.—The Judges of the Supreme Court and Circuit Courts shall

have complete criminal Jurisdiction in such cases and in such manner as may be pointed out by law.

Sec. 9.—Each Court shall choose its own Clerks for the term of four years; but such Clerks shall not continue in office unless their qualifications shall be adjudged and approved of by the Judges of the Supreme Court, and they shall be removable for breach of good behaviour at any time, by the Judges of their respective courts.

Sec. 10.—No Judge shall sit on trial of any cause, where the parties shall be connected with him by affinity or consanguinity, except by consent of the parties. In case all the Judges of the Supreme Court shall be interested in the event of any cause, or related to all, or either of the parties, the Legislature may provide by law for the selection of three men of good character and knowledge, for the determination thereof, who shall be specially commissioned by the Principal Chief for the case.

Sec. 11.—All writs and other process shall run in the name of the Cherokee Nation, and bear test, and be signed by the respective clerks.

Sec. 12.—Indictments shall conclude, "against the peace and dignity of the Cherokee Nation."

Sec. 13.—The Supreme Court shall hold its session annually at the seat of Government to be convened on the second Monday of October in each year.

Sec. 14.—In all criminal prosecutions, the accused shall have the right of being heard, of demanding the nature and cause of the accusation against him, of meeting the witnesses face to face, of having compulsory process for obtaining witnesses in his favor: and in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage;² nor shall he be compelled to give evidence against himself.

Sec. 15.—The people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures and searches, and no warrant to search any place or to seize any person or things, shall be issued without describing them as nearly as may be, nor without good cause, supported by oath, or affirmation. All prisoners shall be bailable by sufficient securities unless for capital offences, where the proof is evident, or presumption great.

ARTICLE VI.—Sec. 1.—Whereas, the ministers of the Gospel are, by their profession, dedicated to the service of God and the care of

²Neighborhood.

souls, and ought not to be diverted from the great duty of their function, therefore, no minister of the gospel, or public preacher of any religious persuasion, whilst he continues in the exercise of his pastoral functions, shall be eligible to the office of Principal Chief, or a seat in either house of the General Council.

Sec. 2.—No person who denies the being of a God, or a future state of rewards and punishment, shall hold any office in the civil department of this Nation.

Sec. 3.—The free exercise of religious worship, and serving God without distinction shall forever be allowed within this Nation; *Provided*, That this liberty of conscience shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this Nation.

Sec. 4.—Whenever the General Council shall determine the expediency of appointing delegates or other public Agents for the purpose of transacting business with the Government of the United States; the power to recommend, and by the advice and consent of the Committee, shall appoint and commission such delegates or public agents accordingly, and all matters of interest touching the rights of the citizens of this Nation, which may require the attention of the government of the United States, the Principal Chief shall keep up a friendly correspondence with that Government, through the medium of its proper officers.

Sec. 5.—All commissions shall be in the name and by the authority of the Cherokee Nation, and be sealed with the seal of the Nation, and signed by the Principal Chief.

The Principal Chief shall make use of his private seal until a National seal shall be provided.

Sec. 6.—A Sheriff shall be elected in each District by the qualified electors thereof, who shall hold his office for the term of two years, unless sooner removed. Should a vacancy occur subsequent to an election, it shall be filled by the Principal Chief as in other cases, and the person so appointed shall continue in office until the next general election, when such vacancy shall be filled by the qualified electors, and the Sheriff then elected shall continue in office for two years.

Sec. 7.—There shall be a Marshal appointed by a joint vote of both houses of the General Council, for the term of four years, whose compensation and duties shall be regulated by law, and whose jurisdiction shall extend over the Cherokee Nation.

Sec. 8.—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 his consent; *Provided*, That nothing in this clause shall be so construed as to impair the right and power of the General Council to lay and collect taxes. All courts shall be open, and every person for an injury done him in his property, person or reputation, shall have remedy by due course of law.

Sec. 9.—The right of trial by jury shall remain inviolate.

Sec. 10.—Religion, morality and knowledge being necessary to good government, the preservation of liberty, and the happiness of mankind, schools and the means of education shall forever be encouraged in this Nation.

Sec. 11.—The appointment of all officers, not otherwise directed by this Constitution, shall be vested in the Legislature.

Sec. 12.—All laws in force in this Nation at the passing of this Constitution, shall so continue until altered or repealed by the Legislature, except where they are temporary, in which case they shall expire at the times respectively limited for their duration; if not continued by an act of the Legislature.

Sec. 13.—The General Council may at any time propose such amendments to this Constitution as two thirds of each house shall deem expedient; and the Principal Chief shall issue a proclamation, directing all the civil officers of the several Districts to promulgate the same as extensively as possible within their respective Districts, at least nine months previous to the next general election, and if at the first session of the General Council after such general election, two thirds of each house shall, by yeas and nays, ratify such proposed amendments they shall be valid to all intents and purposes, as parts of this Constitution; *Provided*, That such proposed amendments shall be read on three several days, in each house as well when the same are proposed as when they are ratified.

Done in Convention at New Echota, this twenty-sixth day of July, in the year of our Lord, one thousand eight hundred and twenty-seven; In testimony whereof, we have each of us, hereunto subscribed our names.

JNO. ROSS, *Pres't Con.*

Jno. Baldrige, Geo. Lowrey, Jno. Brown, Edward Gunter,
John Martin, Joseph Vann, Kelechulee, Lewis Ross, Thomas Foreman,
Hair Conrad, James Daniel, John Duncan, Joseph Vann, Thomas Pettitt,
John Beamer, Ooclenota, Wm. Boling, John Timson, Situwakee,
Richard Walker,

A. McCOY, *Sec'y to Con.*