Constitution and laws of the Cherokee nation.

Contributors

Cherokee Nation, Oklahoma.
Boudinot, W. P.
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Plaintiffs' Exhibit O-in

March 29, 1899

Memorandum for forfeiture.

Copy

"Act relating to persons

"An act in relation to persons who have been admitted to citizenship by Special acts, etc." Commencing on page 270 and ending on page 271.

No other parts of this exhibit are to be forfeited.

O. XV. 60.

270-271

CHEROKEE

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Charles. H. Armstrong

Lightning Creek
Cherokee Nation
Oct- 19th 18

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Plaintiff's Exhibit O.
March 29, 1899. E.S.R.
Comr

CONSTITUTION

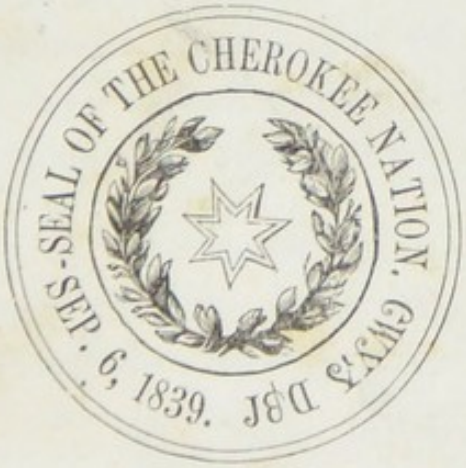
AND

LAWS

OF THE

CHEROKEE NATION.

PUBLISHED BY AUTHORITY OF THE NATIONAL COUNCIL.



ST. LOUIS:
R. & T. A. ENNIS, STATIONERS, PRINTERS AND BOOK BINDERS, 118 OLIVE STREET.
1875.

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PROCLAMATION.

The National Council of the Cherokee Nation, the 19th day of November, 1874, passed an Act authorizing the Principal Chief to appoint three Commissioners "to revise, amend and codify the existing laws, and prepare such other new laws as the advanced condition of the Cherokee Nation demands." Messrs. WILLIAM P. BOUDINOT, D. H. Ross and JOSEPH A. SCALES were accordingly appointed, and submitted the result of their labors to the National Council at its annual session, the 1st Monday in November, 1874. After careful consideration, the National Council accepted and enacted, with the approval of the Principal Chief, so much thereof as may be found embraced in this volume, and which, in accordance with authority, is published and proclaimed as the Code of Laws in force in the Cherokee Nation, from and after the first day of November, 1875, and until amended or repealed by proper authority.

The Act of Union, the Constitution and amendments thereto, have been carefully compared with authorized copies, and are believed to be strictly correct.

WILL. P. ROSS,
Principal Chief.

Seal.

Dated at FORT GIBSON, June 21st, 1875.

ACT OF UNION

BETWEEN THE

EASTERN AND WESTERN CHEROKEES.

WHEREAS, our fathers have existed as a separate and distinct Nation, in the possession and exercise of the essential and appropriate attributes of sovereignty, from a period extending into antiquity, beyond the records and memory of man; *and, whereas*, these attributes, with the rights and franchises which they involve, remain still in full force and virtue; as do also the national and social relations of the Cherokee people to each other, and to the body politic, excepting in those particulars which have grown out of the provisions of the treaties of 1817 and 1819, between the United States and the Cherokee Nation, under which a portion of our people removed to this country, and became a separate community; but the force of circumstances have recently compelled the body of the Eastern Cherokees to remove to this country, thus bringing together again the two branches of the ancient Cherokee family; it has become essential to the general welfare that a Union should be formed and a system of government matured, adapted to their present condition, and providing equally for the protection of each individual in the enjoyment of all his rights.

Therefore, we, the people composing the Eastern and Western Cherokee Nation, in national convention assembled, by virtue of our original and unalienable rights, do hereby solemnly and mutually agree to form ourselves into one body politic, under the style and title of the CHEROKEE NATION.

In view of the union now formed, and for the purpose of making satisfactory adjustments of all unsettled business

which may have arisen before the consumation of this Union, we agree that such business shall be settled according to the provisions of the respective laws under which it originated, and the courts of the Cherokee Nation shall be governed in their decisions accordingly. Also, that the delegation authorized by the Eastern Cherokees to make arrangements with Major General Scott, for their removal to this country, shall continue in charge of that business, with their present powers, until it shall be finally closed. And, also, that all rights and titles to public Cherokee lands on the East or West of the river Mississippi, with all other public interests which may have vested in either branch of the Cherokee family, whether inherited from our fathers or derived from any other source, shall henceforward vest entire and unimpaired in the Cherokee Nation, as constituted by this Union.

Given under our hands, at Illinois Camp-ground, this 12th day of July, 1838.

By order of the National Convention.

GEORGE LOWREY,
President of the Eastern Cherokees.

GEORGE GUESS, his [X] mark,
President of the Western Cherokees.

EASTERN CHEROKEES.

R. TAYLOR, V. P.
JAMES BROWN, V. P.
TE-KE-CHU-LAS-KEE, V. P.
GEORGE HICKS.
JOHN BENGE.
THOMAS FOREMAN.
ARCHIBALD CAMPBELL.
JESSE BUSHYHEAD.
LEWIS ROSS.
EDWARD GUNTER.
TE-NAH-LA-WE-STAH.
STEPHEN FOREMAN.
DANIEL McCOY.

By order of the National Convention.

JOHN ROSS,
Principal Chief, Eastern Cherokees.

GOING SNAKE,
Speaker of Council.

WESTERN CHEROKEES.

TOBACCO WILL, V. P.
DAVID MELTON, V. P.
JOHN DREW, V. P.
GEORGE BREWER.
THOMAS CANDY.
MOSSES PARRIS.
JAMES CAMPBELL.
LOONEY RILEY.
CHARLES GOURD.
LEWIS MELTON.
YOUNG WOLFE.
CHARLES COODY.
AH-STO-LA-TA.
JACK SPEARS.
LOONEY PRICE.

By order of the National Convention.
August 23d, 1839.

JOHN LOONEY, his [X] mark,
Acting Principal Chief, Western Cherokees.

The foregoing instrument was read, considered, and approved by us, this 23d day of August, 1839.

AARON PRICE,
MAJOR PULLUM,
YOUNG ELDERS,
DEER TRACK,
YOUNG PUPPY,
TURTLE FIELDS,
JULY,
THE EAGLE,
THE CRYING BUFFALO.

And a great number of respectable old settlers and late emigrants, too numerous to be copied.

CONSTITUTION OF THE CHEROKEE NATION.

The Eastern and Western Cherokees having again reunited, and become one body politic, under the style and title of the CHEROKEE NATION: Therefore,

We, the people of the Cherokee Nation, in National Convention assembled, in order to establish justice, insure tranquility, promote the common welfare, 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.

Sec. 1. The boundary of the Cherokee Nation shall be that described in the treaty of 1833, between the United States and Western Cherokees, subject to such extension as may be made in the adjustment of the unfinished business with the United States.

Sec. 2. The lands of the Cherokee Nation shall remain common property; 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 improvements, as expressed in this article, shall possess no right

or power to dispose of their improvements, in any manner whatever, to the United States, individual states, or to individual citizens thereof; and that, whenever any citizen shall remove with his effects out of the limits of this Nation, and become a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease: *Provided, nevertheless*, that the National Council 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 memorializing the National Council for such re-admission.

Moreover, the National Council shall have power to adopt such laws and regulations, as its wisdom may deem expedient and proper, to prevent 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 the 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 National Committee and Council; and the style of their acts shall be:—*Be it enacted by the National Council.*

Sec. 2. The National Council shall make provision, by law, for laying off the Cherokee Nation into eight districts; and, if subsequently it should be deemed expedient, one or two may be added thereto.

Sec. 3. The National 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 in their respective districts for two years; the elections to be held in the respective districts every two years, at such times and places as may be directed by law.

The National Council shall, after the present year, be held annually, to be convened on the first Monday in October, at such place as may be designated by the National Council, or, in case of emergency, by the Principal Chief.

Sec. 4. Before the districts shall be laid off, any election which may take place, shall be by general vote of the electors throughout the Nation for all officers to be elected.

The first election for all the officers of the government:—Chiefs, Executive Council, Members of the National Council, Judges and Sheriffs,—shall be held at Tahlequah, before the rising of this convention; and the term of service of all officers elected previous to the first Monday in October, 1839, shall be extended to embrace, in addition to the regular constitutional term, the time intervening from their election to the first Monday in October, 1839.

Sec. 5. No person shall be eligible to a seat in the National 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's or the mother's side, shall be eligible to hold any office of profit, honor or trust, under this government.

Sec. 6. The electors and members of the National Council shall in all cases, except those of treason, felony,

or breach of the peace, be privileged from arrest during their attendance at elections, and at the National Council, in going to and returning.

Sec. 7. In all elections by the people, the electors shall vote *viva voce*.

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

Sec. 8. Each branch of the National Council shall judge of the qualifications and returns of its own members, and determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member; but not a second time for the same offence.

Sec. 9. Each branch of the National Council, when assembled, shall choose its own officers; a majority of each 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 branch may prescribe.

Sec. 10. The members of the National Committee shall each receive from the public treasury a compensation for their services, which shall be three dollars per day during their attendance at the National Council; and the members of the Council shall each receive three dollars per day for their services during their attendance at the National 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 National Council by whom such alteration may have been made.

Sec. 11. The National 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. 12. Each member of the National Council, before he takes his seat, shall take the following oath or affirmation:

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 in my judgment shall 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. 13. No person who may be convicted of felony, shall be eligible to any office or appointment of honor, profit or trust, within this Nation.

Sec. 14. The National 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. 15. It shall be the duty of the National Council to pass such laws as may be necessary and proper to decide differences by arbitration, to be appointed by the parties who may choose that summary mode of adjustment.

Sec. 16. No power of suspending the laws of this Nation shall be exercised, unless by the National Council or its authority.

Sec. 17. No retrospective law, nor any law impairing the obligation of contracts, shall be passed.

Sec. 18. The National Council shall have power to make laws for laying and collecting taxes, for the purpose of raising a revenue.

Sec. 19. All bills making appropriations shall originate in the National Committee, but the Council may propose amendments, or reject the same. All other bills may

originate in either branch, subject to the concurrence or rejection of the other.

Sec. 20. All acknowledged treaties shall be the supreme law of the land, and the National Council shall have the sole power of deciding on the construction of all treaty stipulations.

Sec. 21. The Council shall have the sole power of impeaching. All impeachments shall be tried by the National Committee. When setting for that purpose, the member shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present.

Sec. 22. The Principal Chief, Assistant Principal Chief, and all civil officers, shall be liable to impeachment for 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 the government of 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 styled "The Principal Chief of the Chereokee Nation."

The Principal Chief shall hold his office for the term of four years, and shall be elected by the qualified electors, on the same day, and at the places where they shall respectively vote for members to the National Council.

The returns of the election for Principal Chief shall be sealed up and directed to the President of the National Committee, who shall open and publish them in the

presence of the National Council assembled. The person having the highest number of votes shall be Principal Chief, but if two or more shall be equal and highest in votes, one of them shall be chosen by joint vote of both branches of the Council. The manner of determining contested elections shall be directed by law.

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 qualified electors in the same manner for four years, an Assistant Principal Chief, who shall have attained to the age of thirty-five years.

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

Sec. 5. The National Council may, by law, provide for the case of removal, death, resignation, or disability 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 and Assistant 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 emolument 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 duties 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 National Council at the seat of government.

Sec. 9. He shall, from time to time, give to the National Council information of the state of the government, and recommend to their consideration such measures as he may deem 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 occur in offices, the appointment of which is vested in the National Council, shall be filled by the Principal Chief, during the recess of the National Council, by granting commissions, which shall expire at the end of the next session thereof.

Sec. 14. Every bill which shall pass both branches of the National Council, shall, before it becomes a law, be presented to the Principal Chief; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that branch in which it may 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 branch shall agree to pass the bill, it shall be sent, together with the objections, to the other branch, by which it shall likewise be reconsidered, and if approved by two-thirds of that branch, it shall become a law. If any bill shall not be returned by the Principal Chief within five days, (Sundays excepted), after the same has been presented to him, it shall become a law, in like manner as if he had signed it, unless the National 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 National 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 branches of the National Council, with respect to the time of adjournment, the Principal Chief shall have power to adjourn the same, to such a time as he may deem proper; *provided*, it be not a period beyond the next constitutional meeting thereof.

Sec. 17. The Principal Chief shall, during the session of the National Council, attend at the seat of government.

Sec. 18. There shall be a council composed of five persons, to be appointed by the National Council, whom the Principal Chief shall have full power at his discretion to assemble; he, together with the Assistant Principal Chief, and the counselors, 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; *provided*, the National Council shall have power to reduce the number, if deemed expedient, after the first term of service, to a number not less than three.

Sec. 19. The members of the executive council shall be chosen for the term of two years.

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 branch of the National Council, and any counselor may enter his dissent to the majority.

Sec. 21. The treasurer of the Cherokee Nation shall be chosen by a joint vote of both branches of the National Council, for the term of four 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 National Council, 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. 24. It shall be the duty of the treasurer to receive all public moneys, and to make a regular statement and account of the receipts and expenditures of all public moneys at the annual session of the National Council.

ARTICLE V.

Sec. 1. The judicial powers shall be vested in a Supreme Court, and such Circuit and inferior Courts as the National Council may, from time to time, ordain and establish.

Sec. 2. The Judges of the Supreme and Circuit Courts shall hold their commissions for the term of four years, but any of them may be removed from office on the address of two-thirds of each branch of the National Council to the Principal Chief for that purpose.

Sec. 3. 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 trust under the government of this nation, or any other power.

Sec. 4. No person shall be appointed a judge of any of the courts, until he shall have attained the age of thirty years.

Sec. 5. The Judges of the Supreme and Circuit Courts shall be elected by the National Council, and there shall be appointed in each district as many justices of the peace as it may be deemed expedient for the public good, whose powers, duties and duration in office, shall be clearly designated by law.

Sec. 6. The Judges of the Supreme Court and of the Circuit Courts, shall have complete criminal jurisdiction in such cases, and in such manner, as may be pointed out by law.

Sec. 7. No judge shall sit on trial of any cause when the parties are 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 issue of any cause, or related to all or either of the parties, the National Council may provide by law for the selection of a suitable number of persons of good character and knowledge, for the determination thereof, and who shall be specially commissioned for the adjudication of such case by the Principal Chief.

Sec. 8. 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. 9. Indictments shall conclude—"against the peace and dignity of the Cherokee Nation."

Sec. 10. The Supreme Court shall, after the present year, hold its session annually at the seat of government, to be convened on the first Monday of October in each year.

Sec. 11. In all criminal prosecutions, the accused shall have the right of being heard; of demanding the nature and cause of the accusation; of meeting the witnesses face to face; of having compulsory process for obtaining witnesses in his or their favor; and in prosecutions by indictment or information, a speedy public trial, by an impartial jury of the vicinage; nor shall the accused be compelled to give evid nce against himself.

Sec. 12. 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 issue without describing them as nearly as may be, nor without good cause, supported by oath or affirmation.

Sec. 13. All persons shall be bailable by sufficient securities, unless for capital offences, where the proof is evident or presumption great.

ARTICLE VI.

Sec. 1. No person who denies the being of a God, or a future state of reward and punishment, shall hold any office in the civil department in this nation.

Sec. 2. The free exercise of religious worship, and serving God without distinction, shall, forever be enjoyed within the limits of 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. 3. When the National 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 Principal Chief shall recommend, and, by the advice and consent of the National Committee, appoint and commission such delegates or public agents accordingly. On all matters of interest, touching the rights of the citizens of this nation, which may require the attention of the United States government, the Principal Chief shall keep up a friendly correspondence with that government, through the medium of its proper officers.

Sec. 4. 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 shall be provided.

Sec. 5. A sheriff shall be elected in each district, by the qualified electors thereof, who shall hold his office 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 regular election.

Sec. 6. No person shall, for the same offense, be twice put in jeopardy of life or limb; nor shall the property of any person be taken and applied to public use without a just and fair compensation: *provided*, that nothing in this clause shall be so construed as to impair the right and power of the National Council to lay and collect taxes.

Sec. 7. The right of trial by jury shall remain inviolate, and every person, for injury sustained in person, property or reputation, shall have remedy by due course of law.

Sec. 8. The appointment of all officers, not otherwise directed by this constitution, shall be vested in the National Council.

Sec. 9. 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. 10. The National Council may propose such amendments to this constitution, as two-thirds of each branch may deem expedient, and the Principal Chief shall issue a proclamation, directing all civil officers, of the several districts, to promulgate the same as extensively as possible within their respective districts at least six months previous to the next general election. And if, at the first session of the National Council, after such general election, two-thirds of each branch shall, by ayes and noes, ratify such proposed amendments, they shall be valid to all intent and purposes, as parts of this constitution: *provided* that such proposed amendments shall be read on three several days in each branch, as well when the same are proposed, as when they are ratified.

Done in convention at Tahlequah, Cherokee Nation, this sixth day of September, 1839. GEORGE LOWREY,
President of the National Convention.

HAIR CONRAD, his X mark.
JOHN BENGE, his X mark.
ARCHIBALD CAMPBELL, his X mark.
THOMAS CANDY. JOHN DREW.
GEORGE GUESS, his X mark.
WALTER SCOTT ADAIR.
YOUNG ELDERS, his X mark.
WILL SHOREY COODEY.
THOMAS FOREMAN. RICH'D TAYLOR.
THOMAS FOX TAYLOR.
O-KAN-STO-TAH LOGAN, his X mark.
JAMES SPEARS, his X mark.
JOHN SPEARS.
STEPHEN FOREMAN.
YOUNG GLASS, his X mark.
LOONEY PRICE.
TOBACCO WILL, his X mark.
MAJOR PULLUM, his X mark.
MOSES PARRIS.
GEORGE WASHINGTON GUNTER.
KENCH LOGAN, his X mark.
YOUNG WOLF. JOS. MARTIN LYNCH.
SAL-LA-TEE-SKEE WATTS, his X mark.
GEORGE BREWER, his X mark.
JOSHUA BUFFINGTON.
JESSE BUSHEYHEAD. JESSE RUSSELL.
JOHN FLETCHER BOOT, his X mark.
CRYING BUFFALO, his X mark.
BARK FLUTE, his X mark.
OO-LA-YO-A, his X mark.
SOFT SHELL TURTLE, his X mark.
EDWARD GUNTER.
DANIEL COLSTON, his X mark.
LEWIS ROSS. GEORGE HICKS.
TURTLE FIELDS, his X mark.
ELIJAH HICKS,
TAH-LAH-SEE-NEE, his X mark.
JAMES BROWN. CHARLES COODEY.
RILEY KEYS. DANIEL McCOY.
LEWIS MELTON.

PROCLAMATION AND AMENDMENTS TO THE CONSTITUTION.

ADOPTED NOVEMBER 26, 1866.

PROCLAMATION BY THE PRINCIPAL CHIEF.

WHEREAS, The National Council adopted certain amendments to the Constitution of the Cherokee Nation, and submitted the same to a general convention of the people of the Cherokee Nation, called at Tahlequah, on the 26th day of November, A. D. 1866, and which said amendments, with the preamble thereto attached, were in the following words, to-wit:

WHEREAS, By the treaty executed at Washington, on the 19th day of July, A. D. 1866, between the United States and the Cherokee Nation, through its delegation, ratified by the Senate and officially promulgated by the President of the United States, August 11th, 1866, certain things were agreed to between the parties to said treaty, involving changes in the Constitution of the Cherokee Nation, which changes cannot be accomplished by the usual mode, and—

WHEREAS, It is the desire of the people and government of the Cherokee Nation, to carry out in good faith all of its obligations, to the end that law and order be preserved, and the institutions of their government maintained:

THEREFORE, *Be it Resolved by the National Council*, That the following *amendments* to the Constitution of the Cherokee Nation be submitted to a convention of the Cherokee people, to assemble at Tahlequah, on the twenty-

sixth (26th) day of November, A. D. 1866, under the proclamation of the Principal Chief; and should said amendments, hereunto annexed, be ratified by said convention, then they shall be officially published, and declared by the Principal Chief to be, and shall constitute a part or parts of the Constitution of the Cherokee Nation.

AMENDMENTS.

AMENDMENTS TO ARTICLE I.

Sec. 1. The boundary of the Cherokee Nation shall be that described in the treaty of 1833, between the United States and the Western Cherokees, subject to such modifications as may be made necessary by the 17th article of the treaty concluded at Washington City, on the 19th day of July, 1866, between the United States and the Cherokee Nation.

Sec. 2. The lands of the Cherokee Nation shall remain common property until the National Council shall request the survey and allotment of the same, in accordance with the provisions of Article 20th of the treaty of 19th of July, 1866, between the United States aud the Cherokee Nation.

AMENDMENTS TO ARTICLE III.

Sec. 1. The Upper House of the National Council, known as the National Committee, shall be hereafter known and styled the Senate of the Cherokee Nation, and shall consist of two senators for every district in the Cherokee Nation.

Sec. 2. The Council shall consist of two members from each district, and when a district shall have to exceed two hundred voters, it shall have an additional member, and for every additional two hundred voters in said district, upwards of four hundred, it shall have an additional

member: *Provided*, that when any district shall have less than one hundred voters according to the census, it shall still be entitled to one representative.

Sec. 3. In order to ascertain and fix the representation to the Council, provided for by the preceding section, the National Council shall cause to be taken, as soon as practicable, a census of the population of the Cherokee Nation, according to districts. A second census shall be taken, in like manner, in the year 1870, and each ten years thereafter, and the National Council shall regularly apportion representation among the several districts, as provided in the preceding section, agreeably to such census.. The first apportionment, provided for above, shall be made before the first day of June, and shall govern the election to be held on the first Monday in August, 1867.

Sec. 4. The National Council shall, after the present year, be held annually, to be convened on the first Monday in November, at such place as may be designated by the National Council, or in case of emergency, by the Principal Chief.

Sec. 5. No person shall be eligible to a seat in the National Council but a male citizen of the Cherokee Nation, who shall have attained to the age of twenty-five years, and who shall have been a *bona fide* resident of the district in which he may be elected, at least six months immediately preceding such election. All native born Cherokees, all Indians, and whites legally members of the Nation by adoption, and all freedmen who have been liberated by voluntary act of their former owners or by law, as well as free colored persons who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months from the 19th day of July, 1866, and their descendants, who reside within the limits of the Cherokee Nation, shall be taken, and deemed to be, citizens of the Cherokee Nation.

Sec. 6. The members of the National Council shall each receive from the public treasury a compensation for their services, which shall be three dollars per day, during their attendance at the National Council upon any regular session, not exceeding thirty days; *provided*, that the *per diem* allowance may be increased or diminished by law; but no alteration shall take effect during the period of service of the members of the National Council, by whom such alteration may have been made.

Sec. 7. All male citizens, who have attained the age of eighteen years, shall be deemed qualified electors of the Cherokee Nation, and there shall be no restrictions by law, save such as are required for persons convicted of crime, or for such limit as to residence, not exceeding six months in the district where the vote is offered, as may be required by census or registration.

AMENDMENTS TO ARTICLE V.

Sec. 1. The Supreme Court shall consist of three judges, who shall be elected by the National Council, and whose duties, jurisdiction and compensation, shall be defined by law, in the manner prescribed by the constitution. The National Council, at its annual session in 1867, shall elect one of the Supreme Judges for three years, one for two years, and one for one year, and at each annual session of the National Council thereafter, shall elect one Supreme Judge, whose official term shall be three years.

Sec. 2. The judges of the Circuit Court shall hereafter be elected by the people, for the term of four years, and shall have the same jurisdiction, discharge the same duties, and be compensated in the same manner, as is now provided for by the constitution. There shall be elected, in like manner, in and for each district, as many judges as it may be deemed expedient for the public good, whose powers, duties, and duration in office, shall be clearly designated by law.

ARTICLE VII.

Sec. 1. Neither slavery, nor involuntary servitude, shall ever hereafter exist in the Cherokee Nation, otherwise than in the punishment of crime, whereof the party shall have been duly convicted; and any provision of the Constitution of the Cherokee Nation conflicting with the foregoing section, is hereby annulled.

Sec. 2. The persons now holding office shall continue therein, except as may be otherwise expressly provided by law for Canadian district, until their successors be commissioned in November, 1867.

TAHLEQUAH, CHEROKEE NATION, NOV. 29, 1866.

SMITH CHRISTIE,
President of National Committee.

CONCURRED:

WRITER,
Speaker of Council.

APPROVED:

WILL. P. ROSS.

At a general convention of the people of the Cherokee Nation, held at Tahlequah, Cherokee Nation, on the 28th day of November, A. D. 1866, for the purpose of taking into consideration the foregoing *amendments* to the Constitution of the Cherokee Nation; and, whereof, Riley Keys, Chief Justice of the Supreme Court, was chosen President, and Budd Gritts, Secretary: the said amendments to the Constitution of the Cherokee Nation were read, considered, and severally approved and adopted by the Cherokee people.

In testimony whereof, the president and secretary of said convention, have subscribed the same at Tahlequah, Cherokee Nation, on this the 28th day of November, A. D. 1866.

RILEY KEYS,
President of the Convention.

BUDD GRITTS,
Secretary.

AND, WHEREAS, The said foregoing amendments to the constitution, were duly submitted to the said general convention of the Cherokee people, and were severally read, considered, and adopted on the 28th day of November, A. D. 1866.

Now, therefore, Be it known, that I, William P. Ross, Principal Chief of the Cherokee Nation, do issue this, my proclamation, declaring said amendments to be a part of the Constitution of the Cherokee Nation.

In testimony whereof, I have hereunto subscribed my name, this the 7th day of December, A. D. 1866.

WILL. P. ROSS,
Principal Chief.

AN ACT

ADOPTING THE NEW CODE OF LAWS.

Be it enacted by the National Council, as follows, to-wit:

That the Revised Code of laws as prepared by Messrs. Wm. P. Boudinot, D. H. Ross and J. A. Scales, Commissioners, appointed under the provisions of an act entitled "an act providing for the revision of the laws," approved November 19th, 1873, and as amended by the joint committee of the National Council, and consisting of the following chapters and articles, to--wit:

CHAPTER I.

AN ACT RELATING TO DUTIES OF OFFICERS.

Article I.	Duties of	Principal Chief.
II.	"	Treasurer.
III.	"	Auditor.
IV.	"	Sheriffs.
V.	"	District Clerks.
VI.	"	Executive Council.
VII.	"	Solicitor General.

CHAPTER II.

AN ACT FOR THE ORGANIZATION OF THE NATIONAL COUNCIL.

CHAPTER III.

AN ACT RELATING TO THE JUDICIARY.

ART. I. General Provisions.
II. Supreme Court.
III. Circuit Court.
IV. District Court.
V. Juries.
VI. Grand Juries.
VII. Criminal Trials.
VIII. Solicitors.
IX. Testimony and rules relating thereto.
X. Witnesses and Subpoenas.
XI. Executions.
XII. Limitation of actions.
XIII. Garnishment.
XIV. Attachment.
XV. Possession of property.
XVI. General Rules.
XVII. Places of Holding Courts.
XVIII. Interpreters.
XIX. Bonds.

CHAPTER IV.

AN ACT RELATING TO CRIMES.

ART. I. Treason and Conspiracy.
II. Murder and Manslaughter.
III. Excusable and Justifiable Homicide.
IV. Assault with intent to kill.
V. Burglary, Robbery and Larceny.
VI. Rape.
VII. Mayhem.
VIII. Arson.
IX. Perjury.
X. Poisoning.
XI. Bribery.
XII. Embezzlement.

XIII. Forgery and Counterfeiting.
XIV. Escape of Prisoners.
XV. Guards.
XVI. Abortion.
XVII. Introducing and vending liquors.
XVIII. Houses of ill fame.
XIX. Gambling.
XX. Marking and branding stock.
XXI. Offenses against health.
XXII. Disturbing public assemblies.
XXIII. Malicious trespassing.
XXIV. False pretense.
XXV. Burning prairie or woods.
XXVI. Weights and Measures.
XXVII. Betting on elections.
XXVIII. Obstructing public roads.
XXIX. Destroying Pecan and other trees.
XXX. Principals and Accessories.
XXXI. Damages.
XXXII. Sundays.
XXXIII. Slander and Libel.

CHAPTER V.

AN ACT RELATING TO CRIMINAL EXECUTIONS.

CHAPTER VI.

AN ACT RELATING TO NATIONAL PRISON.

CHAPTER VII.

AN ACT RELATING TO DISTRICTS AND REPRESENTATION IN NATIONAL AND GENERAL COUNCIL.

ART. I. Relating to Districts.
II. Sequoyah District.
III. Illinois "
IV. Canadian "

V. Going Snake District.
VI. Flint "
VII. Tahlequah "
VIII. Saline. "
IX. Coo-wee-skoo-wee "
X. Delaware "
XI. Representation in National Council.
XII. " General "

CHAPTER VIII.

AN ACT RELATING TO ELECTIONS.

ART. I. Elections.
II. Manner of Contesting Elections.
III. Frauds at Elections.

CHAPTER IX.

AN ACT RELATING TO ADMINISTRATIONS.

ART. I. Letters of Administration, Executors and Guardians.
II. Relating to Minors.
III. " Wills.
IV. Descent of Property.

CHAPTER X.

AN ACT RELATING TO EDUCATION.

CHAPTER XI.

AN ACT RELATING TO ASYLUM FOR BLIND, INSANE AND OTHERS.

ART. I. Organization.
II. Duties of Trustees.
III. " Steward.
IV. Admission of persons.
V. Miscellaneous provisions.

CHAPTER XII.

MISCELLANEOUS ACTS.

ART. I. Drovers' Tax.
II. Trade and Intercourse.
III. Incorporating the town of Fort Gibson.
IV. Regulating Interest on notes.
V. Establishing the seat of government.
VI. Recovery of Stolen property.
VII. Fixing Compensation of officers, and other persons.
VIII. Fixing places for holding Courts.
IX. Attorneys.
X. Vacancy in office.
XI. National Newspaper.
XII. Military and Agency Reserve.
XIII. Publication of Penal laws.
XIV. Permits to hire citizens of the United States.
XV. Intermarriage of white-men and foreigners.
XVI. Arbitration of Civil causes.
XVII. Minerals.
XVIII. Dangerous weapons.
XIX. Marriage and Divorce.
XX. Lawful fences.
XXI. Prohibiting Sale and Restricting Lease of Real Estate.
XXII. Grist Mills.
XXIII. Stray property.
XXIV. Licensed traders.
XXV. Intruders.
XXVI. Liability of the Cherokee Nation to her own citizens.

CHAPTER XIII.

RULES FOR CONSTRUING THIS CODE.

CHAPTER XIV.

RELATING TO ACTS INCONSISTENT WITH THIS CODE.

Be and the same are hereby to be the laws of the Cherokee Nation; and shall take effect, and be in operation, from and after the first day of November, A. D. 1875.

JOHN R. DUVAL,
Speaker of Council.

WILLIAM WILSON,
President of Senate.

Approved, December 5th, 1874.

WILL. P. ROSS,
Principal Chief.

AN ACT AUTHORIZING THE APPOINTMENT OF A JOINT COMMITTEE TO REVIEW THE CODE.

Be it enacted by the General Council:

That a Joint Committee, to consist of five members of the Council, to be appointed by the Speaker of the Council, and three members of the Senate, to be appointed by the President of the Senate, be appointed for the purpose of examining and considering the New Code of Laws as prepared and submitted by the committee authorized by act of the National Council of November, 1873; and that said Joint Committee, after careful consideration of said Code, report to the National Council such amendments, if any, as they may deem expedient, for the action of the National Council; and that said Code, so examined and returned by said Joint Committee, and acted upon by the National Council, as above provided for, be accepted by the National Council as the CODE OF LAWS of the Cherokee Nation; to take effect on the first day of November, 1875.

Be it further enacted: That the Principal Chief be and is hereby authorized, after the adoption of the Code by the National Council, to take immediate steps for having the same translated into Cherokee, and published in both the Cherokee and English languages, in the best possible form for reference, and furnish copies thereof, gratuitously, to any officer, or other citizen of the Nation, applying for the same; and he is hereby authorized to draw his warrant on the general fund to carry out the provisions of this act.

CHAS. THOMPSON,
President *pro tem.* of Senate.

JOHN R. DUVAL,
Speaker of Council.

Approved, November 30th, 1874.

WILL P. ROSS,
Principal Chief.

REVISED CODE.

CHAPTER I.

AN ACT RELATING TO THE DUTIES OF OFFICERS.

ART. I.	Duties of	Principal Chief.	ART. V.	Duties of	District Clerks.
II.	"	Treasurer.	VI.	"	Executive Council.
III.	"	Auditor of Accounts.	VII.	"	Solicitor General.
IV.	"	Sheriffs.			

ARTICLE I.

DUTIES OF PRINCIPAL CHIEF.

Sec. 1. Immediately after the meeting of the first annual session of the National Council after a general election, and the organization of the two branches thereof, the President of the Senate shall, (after having received the election returns,) cause notice thereof to be given to the Council; and that he will proceed to open and count the same at a certain hour, and requesting the presence of that body, at that time, for that purpose; and at the time designated, he shall proceed, with the assistance of the Chief Clerk of the Senate, and the Speaker and Chief Clerk of the Council, beginning with the returns for the chieftaincy, if any, to open and examine the returns from each district, one at a time, in the presence of the two houses, and carefully compute and publish the result, and have a faithful record thereof made upon the journal of the Senate.

Sec. 2. Whenever an election for Principal and Assistant Principal Chiefs shall have been held, and the result ascertained as by law provided, it shall be the duty of the President of the Senate to appoint a special committee of three members of the Senate, to wait upon and notify the Principal and Assistant Principal Chiefs elect, of the same. He shall also notify, in like manner, the Speaker of the Council, for the information of the members thereof; and as soon as may be thereafter, the two branches of the National Council shall meet in joint session, for the purpose of inducting into office, the said Principal and Assistant Principal Chiefs elect.

Sec. 3. The constitutional oath (or affirmation) of office, shall, in the presence of the members of both branches of the National Council assembled, be administered, first to the Principal and then to the Assistant Principal Chief elect, by the Chief Justice, or one of the Associate Justices of the Supreme Court, or by any other judge or officer duly authorized to administer oaths; a record of which shall be made and retained in the proceedings of the Senate; and such Principal and Assistant Principal Chiefs, shall thereupon be qualified to enter upon the discharge of their duties; *provided, however*, that the Principal Chief and Assistant Principal Chief elect, or either of them, as the case may be, may be installed and qualified by any officer authorized to administer oaths, by taking the constitutional oath at any place or in any manner most convenient or satisfactory, according to the circumstances of the case, or the emergency of the occasion.

Sec. 4. The Principal Chief shall have control of the national seal, and in all cases, where necessary, may direct the proper application, use, and preservation of the same.

Sec. 5. The Principal Chief may, in his discretion, appoint in his office, a Secretary, and when necessary, one or more Assistant Secretaries, who shall receive the compensation provided by law.

Sec. 6. The Principal Chief may require information in writing, or otherwise, from the various commissioned officers of the Nation, on any subject pertaining to their duties, and, from time to time, give such and other information to the National Council, concerning the condition and interests of the Nation, and recommend to their consideration such measures as he may deem expedient, so as to enable them to fully understand the condition of public affairs; the conduct of public officers, in the discharge of their duties; the condition and wants of the several national institutions; with the condition of the people, and the industrial, educational and religious interests, and prosperity of the Nation generally.

Sec. 7. The Principal Chief may, at any time, in person or otherwise, inspect the books, vouchers, and other official papers in or belonging to the offices of the Treasurer of the Nation, and Auditor of Accounts; and count the money in the treasury; and if he shall, at any time, discover, or have reason to believe, that either of said officers have been guilty of embezzlement, peculation, defalcation, or fraud, in his office, he shall forthwith suspend said officer from his said office, and shall cause legal proceedings to be instituted against him, and shall make a temporary appointment to fill such office, until the case can be disposed of according to law.

Sec. 8. The Principal Chief shall, to the best of his ability, see that the constitution of the Nation, and all laws of the National Council, are well and uniformly observed and enforced throughout the Nation; to which end he may, in his discretion, suspend from office, and report for impeachment, any commissioned officer who may be guilty or accused of any wilful violation or neglect of, or incompetency, in the discharge of his official duties, and fill the vacancy so created, for the time being, by special appointment.

Sec. 9. If the National Council shall impeach and convict any officer suspended by the Principal Chief, the

incumbent holding, by virtue of appointment by the Principal Chief, shall hold and continue (unless removed) in the discharge of the duties of the office, for the unexpired term of the person removed, or until a successor is elected and duly qualified. But if such officer, so suspended, shall be for any cause re-instated by the Principal Chief, or by the National Council, the Principal Chief shall endorse upon the back of the commission of the officer so suspended and re-instated, the date of both the suspension and re-instatement, and make official record of the same; and said officer shall not draw pay for the "*interim*," while not in actual service, neither shall the temporary incumbent draw pay, except for the time of actual service.

Sec. 10. The Principal Chief shall encourage friendly relations between the Cherokees and other nations and tribes of Indians, and the adoption of such measures as he may deem necessary for their mutual safety and prosperity. He shall also encourage amicable intercourse between the Cherokees and people of the United States, and may, in his wisdom, confer with the officers of the Federal and State governments, upon all matters of mutual public interest.

Sec. 11. The Principal Chief may, whenever he deems it expedient, appoint one or more persons to act as Commissioners, for the purpose of meeting and conferring with a like commission of any other nation or tribe of Indians, upon matters of mutual interest.

Sec. 12. Whenever a vacancy shall occur in the office of Treasurer of the Cherokee Nation, the Principal Chief shall appoint and commission a suitable person to perform the duties of said office until such vacancy shall be regularly supplied by the National Council; and the Treasurer so appointed by the Principal Chief, shall, before he enters upon the duties of the office, enter into such reasonable

bond as may be required by the Principal Chief, and qualify in the same manner as required by law, of the Treasurer, in whose stead he shall be appointed.

Sec. 13. In case of the death of the Treasurer, the Principal Chief shall, as soon as may be, in the presence of the Assistant-Treasurer, if any, and one or more of the sureties of the deceased Treasurer, or any one or more officers of the Nation, or other trustworthy citizen or citizens thereof, proceed and take possession of the office, books, papers, moneys, and other property belonging to said office. He shall take, or cause to be taken, in the presence of one or more of the persons aforesaid, a full and correct schedule of the moneys, books, papers, furniture, and other effects or property belonging to said office, and thereupon close, lock and seal, or otherwise safely secure the said books, moneys, and other property of said office, until the vacancy can be filled as provided by law.

Sec. 14. It shall be the duty of the Principal Chief to communicate to the National Council, at the commencement, or as soon thereafter as may be, of each annual session thereof, the annual reports of all officers, required by law to report to him.

Sec. 15. The Principal Chief shall, at least forty days before any general election, and not less than ten days before a special election to fill a vacancy, promulgate the same by proclamation or writ of election, addressed to the Clerks of the several districts, or to any one or more of them, as the case may be. He shall state distinctly the day on which the election will occur, the offices to be filled, and the length of the term of service.

Sec. 16. The Principal Chief shall, from time to time, adopt such means as he may deem necessary to secure uniformity in the conducting of elections; for which purpose he may furnish, or cause to be furnished, blank rolls, envelopes, and other necessary stationery, to the district

Clerk of the several districts for distribution, to the Superintendents and Clerks of the various precincts, and no others shall be used unless unavoidable.

Sec. 17. The Principal Chief shall have authority, upon the perpetration or attempt to perpetrate any act against the peace and dignity of this Nation, by two or more persons conspiring or combining for such purpose in any district, and he shall have good cause to believe that the Sheriff of such district is unable to maintain the supremacy of the law, or to suppress or resist such combination, to call upon any of the other Sheriffs of the Nation, to aid, with such civil force as may be thought necessary under the circumstances.

Sec. 18. The Principal Chief shall have authority to grant, (by and with the advice and consent of the Executive Council,) pardons to persons convicted of the crime of murder, manslaughter, or other high crimes; or he may commute the punishment of persons convicted of murder, manslaughter, or other high crimes, to imprisonment for life, or for any term of years, upon such conditions and restrictions as he may think proper.

Sec. 19. All applications made to the Principal Chief for the pardon or commutation of sentence of any person convicted of murder, manslaughter, or other high crimes, shall be accompanied with a recommendation of credible persons, that the convict is a proper subject for executive clemency; and shall also be accompanied by the evidence in the case, or a certified copy thereof, if accessible, and a full statement of the facts in the case and the grounds of application. The Principal Chief shall, if the reasons set forth seem to warrant, grant, if necessary, an additional respite for a given period, until he can assemble the Executive Council, who shall, with him, carefully consider the evidence, the circumstances, and facts in the case, and decide and order accordingly.

Sec. 20. The Principal Chief shall, in conformity with law, receive such election returns as shall be made through his office to the National Council. The returns for Principal and Assistant Principal Chiefs and members of the National Council, he shall receive, carefully preserve, and transmit to the National Council unopened, as soon as may be after the organization of the Senate. The returns for members of the General Council of the Indian Territory, and for all other officers requiring commissions, he shall open, and no lawful objections appearing, proceed to commission such persons as shall appear to have been duly elected. The term of all offices, the incumbents of which are commissioned by the Principal Chief, shall begin on the third Monday in November, and expire as provided by the constitution, or by law, and the officers shall be commissioned accordingly.

Sec. 21. Whenever in his opinion the public good requires it, the Principal Chief may offer, and pay from the treasury of the Nation, a suitable reward, not exceeding five hundred dollars in any one case, to any person who shall in consequence of such offer, apprehend, secure and safely deliver to the proper authority, any person who shall be guilty or accused of any capital or other high crime, when the person accused cannot be arrested and secured in the common course of proceeding, or when such person escapes beyond the jurisdiction of the Cherokee Nation. He may also pay such reasonable sum as his judgment may approve, not exceeding three hundred dollars, to any person who shall arrest in advance of the offering a reward by the Chief, or issuance of legal process of arrest, and safely deliver to the proper authority, any person who shall be charged with the commission of murder, or other high crime, after the conviction of such person.

Sec. 22. Whenever it shall appear to the satisfaction of the Principal Chief, that any person charged with a capital or other criminal offense, has fled beyond the jurisdiction

of the Cherokee Nation, and taken refuge in any other country, he shall make requisition upon the executive authority of such country, for the arrest and rendition to the lawful authorities of the Cherokee Nation, of the person so accused.

Sec. 23. The Principal Chief shall, when requisition is made upon him by the executive of any other nation or government, for the arrest and rendition of any person charged with a criminal offense, such person being amenable to the laws of such nation or government, and who shall have taken refuge in the Cherokee Nation, if satisfied that such demand is conformable to law, and ought to be complied with, issue his proclamation, requiring the proper officers of this Nation to proceed at once to make the arrest and delivery to the authority making the demand.

Sec. 24. The Principal Chief shall cause to be transmitted to the executive of each, or of any, or more of the States of the United States, and to the library of Congress, copies of the laws of the Cherokee Nation, and such other public documents as he may deem proper, and shall receive such books and publications as may be transmitted in return, and cause the same to be deposited in the national library.

Sec. 25. The Principal Chief shall have and exercise the appointing power as provided in the constitution and laws of the Cherokee Nation. He shall also fill, by special appointment, all vacancies in offices subject to such appointment under the laws and constitution of the Nation.

Sec. 26. The Principal Chief shall require all bonds to be approved by him, to be verified by the oath—or affirmation—of the sureties, that they are worth, free from incumbrance, the penalty of such bond: *provided*, that such bond shall be adjudged sufficient, if the aggregate amount for which each surety justifies, covers the full penalty of the bond.

Sec. 27. The Principal Chief, when he deems that the public interests demand it, may convene the National Council in extra or special session; and the National Council, so convened, shall legislate upon such subjects only as may be recommended or sanctioned by the Principal Chief.

Sec. 28. In case of disagreement between the Senate and the Council as to the time of adjourning, the Principal Chief shall fix the time, and adjourn such session as the law directs. He may, if satisfied that the public interests demand it, adjourn a special session at any time; *provided, however*, that he shall have no authority to adjourn a session for the purpose of defeating or delaying investigation by the National Council of any of his official acts.

Sec. 29. The Principal Chief shall draw warrants upon the treasury of the Cherokee Nation for all money payable out of the treasury, in pursuance of law. Warrants for the services of members of the National Council, shall be ready for delivery upon the adjournment of each annual session of Council, or as soon as may be thereafter; and the Principal Chief shall instruct the Treasurer to be in attendance and ready to pay the same, immediately after the adjournment, if there are appropriate funds in the treasury for that purpose.

Sec. 30. The National Council, or either branch thereof, may inquire of the Principal Chief, in writing, concerning all proper public subjects of inquiry; and the Principal Chief shall within six days after receiving the request, if by him deemed proper and expedient, furnish the desired information, or state his reasons for declining.

Sec. 31. The Principal Chief shall, as occasion demands, call upon the authorities of the United States for the prompt removal of all persons not lawfully residing or sojourning in the Cherokee Nation; and he is authorized to order any Sheriff of this Nation, with such force as may

be necessary for that purpose, to co-operate with any authority of the United States, for the removal of any person or persons not having the rights of Cherokee citizenship.

ARTICLE II.

DUTIES OF TREASURER.

Sec. 32. No person shall be eligible to the office of Treasurer of the Cherokee Nation, excepting a native born male citizen thereof, who shall have attained the age of twenty-five years.

Sec. 33. The Treasurer shall hold his office for the term of four years, or until his successor is qualified and enters upon the duties of the same. He shall, during the sessions of the National Council, keep his office and make disbursements at the seat of government.

Sec. 34. The Treasurer shall, within twenty days after receiving official notice of his election, and before entering upon the duties of his office, take and subscribe the required oath, (or affirmation) and enter into bond in such sum and with such sureties as the National Council shall approve, and who shall be citizen property holders of this Nation, conditioned for the faithful discharge of the duties of his office, and for the faithful performance by all persons employed by him in his office, and that he will deliver over to his successor in office, or to any other person authorized by law to receive the same, all moneys, books, records, papers and other articles and effects, belonging to said office, which bond shall be executed to the Cherokee Nation, approved by the Principal Chief, and submitted by him (the Principal Chief), as soon as may be, to the Senate, for the information and approval of the National Council. The bond, with the following oath (or affirmation) of office, duly subscribed by the treasurer and

certified by the officer administering the same, attached, shall be put on file for safe keeping, in the executive office, and shall be deemed to extend to the faithful execution of all the duties of the office of treasurer until his successor shall be elected, qualified, and enters upon the duties thereof.

OATH.

I ——— do solemnly swear (or affirm), that I will faithfully and to the best of my ability, perform the duties of treasurer of the Cherokee Nation,—that I will carefully preserve all books, records, papers, moneys and other property coming into my custody by virtue of the office,—that I will disburse the public moneys in conformity with the express provisions of law, and without fear, favor, or partiality to any one,—that I will not lend, with or without interest, or otherwise use any of the public moneys, or other property, for any use whatever, not authorized by law,—that I will be accountable to the Cherokee Nation for the acts of all subordinates appointed by me and serving in my office under me,—that I will make true and correct reports of the condition of the treasury, whenever by law required so to do,—and that I will turn over, or account for, to my successor in office, or any person lawfully authorized to receive the same, all moneys, securities, records, papers, furniture and other property of the Cherokee Nation, that may be, or may have come into my possession as treasurer. So help me God.

Sec. 35. Whenever the funds in the treasury shall exceed three-fourths the amount of the treasurer's bond, or whenever the Principal Chief shall deem such bond insufficient, by reason of the insolvency, death or removal from the Nation of any of the sureties, or from any other cause, he shall require the treasurer to give an additional bond, within such time, in such reasonable amount, and with such surety as he shall direct and approve. No surety shall be permitted to withdraw from the bond of the treasurer, during the term for which the bond was executed, without the consent of the Principal Chief and a majority of the other sureties. In case of the death of any surety, the estate of such surety shall continue to be liable for any default or deficit in the treasurer's office, that may occur during the life of the surety.

Sec. 36. It shall be the duty of the treasurer to keep, in books provided for that purpose, fair, full and separate accounts of all moneys received and disbursed by him;

from what source derived, and on what account paid. He shall record all appropriation acts under which he makes payments, and correct copies of all official reports made by him, and keep such records as will exhibit the state of the funds on all accounts, and the condition of the treasury in regard to the debts and credits to which it is subject. He shall pay no moneys out of the treasury except in pursuance of a law authorizing the same, and upon warrants drawn by the Principal Chief. He shall pay on demand, all warrants in the order in which they become due, whenever there are appropriate funds in the treasury to pay the same, giving preference to no one. If the funds in the treasury are inadequate to pay all warrants in full, in the order in which they are presented, or may become due, the treasurer shall *pro rata* the same, giving every creditor the benefit of his proportionate share.

Sec. 37. In every *pro rata* payment he shall record in a book, every warrant presented and entitled, to whom issued, the date thereof, by whom presented, the whole amount thereof, the *pro rata* amount then payable, to whom paid, date of payment, and balance due. The endorsement on the back of the warrant shall agree with the record of the treasurer. On final payment, the register of the treasurer shall show, to whom paid, and the endorsement on the warrant shall be by the person to whom final payment is made.

Sec. 38. The books, papers and transactions of the treasurer's office, shall at all times be open to the inspection of the Executive, Legislative and Judicial officers of the Nation.

Sec. 39. The treasurer shall have full supervision of the revenue of the Nation, from whatever sources derivable. He may adopt such measures as he may deem necessary to increase the income and to insure the collection thereof, that may be derived therefrom, as provided by law; and for which purpose he may institute and prosecute suits

before the courts of this Nation, and shall be entitled to, and divide with his assistants, ten per cent. of all internal revenue collected.

Sec. 40. He shall make to the Principal Chief, for the information of the National Council, within twenty days after the end of each fiscal year, a full and detailed statement of all moneys received into and paid out of the treasury, during the preceding fiscal year; showing under separate heads, from what sources received, and for what particular object or service paid out; and also the precise state of the treasury, together with such information and suggestions of a fiscal nature, as he may deem useful and proper; which report shall be published with the laws of the session at which the same shall have been made.

Sec. 41. He shall perform such other duties as may be imposed upon him by law.

Sec. 42. The treasurer shall have power, in his discretion, to appoint in his office, and under his hand and seal, and with the approval of the Principal Chief, an assistant, who shall be designated assistant treasurer, and who shall continue in office during the term of the treasurer appointing him, unless sooner removed by him.

Sec. 43. The assistant treasurer shall take the same oath prescribed for the treasurer; which shall be filed with the bond and oath of the treasurer, in the office of the Principal Chief. He shall discharge such duties as the treasurer may impose upon him; and for the faithful performance of whose official duties, the treasurer and the sureties in his official bond, shall be responsible.

Sec. 44. The assistant treasurer shall receive a salary to be fixed and paid by the treasurer out of his salary, and his proportion of ten per cent. upon special revenues collected.

Sec. 45. The "FISCAL YEAR" of the Cherokee Nation, shall begin on the first day of October, and close on the thirtieth day of September of each year; and all books and accounts of the treasurer, shall be kept, and duties of his office performed, with regard to the beginning and ending of the fiscal year.

Sec. 46. All officers required to render annual, semi-annual and quarterly accounts to the treasurer, shall do so in conformity with the express provisions of law, and with reference to the beginning and ending of the fiscal year; and it is hereby made the imperative duty of the treasurer to promptly report any officers failing so to do.

Sec. 47. No one shall act as assistant treasurer unless eligible to the office of treasurer of the Cherokee Nation.

Sec. 48. The official bond of the treasurer may be prosecuted upon a breach thereof, from time to time, until the whole penalty is collected.

Sec. 49. A joint special committee consisting of two senators and three members of the council, shall be appointed within five days after the organization of each annual session of the National Council, by the presiding officer of each branch, for the purpose of making a settlement with the treasurer. They shall have free access to the books, papers and effects of the office,—count the funds on hand, compare accounts, and report accordingly. The treasurer shall furnish said committee with the necessary information appertaining to the office.

Sec. 50. The settlement thus made being satisfactory to the National Council, the committee shall, in the presence of the treasurer, proceed and destroy, by burning, all cancelled warrants on file in the office. The treasurer shall, from year to year, retain in his office, all warrants or vouchers of whatever character paid by him, for the information of said joint committee.

Sec. 51. He shall not, during his term of office, accept of, or be elected, or appointed, to any other office or position of trust or profit, whereby he may be prevented from exercising a uniform and uninterrupted supervision of his office.

ARTICLE III.

DUTIES OF AUDITOR.

Sec. 52. That there be and is hereby created the office of Auditor of Accounts. The auditor shall be elected at the time, and in the manner as the solicitor general is elected, and his term of office shall expire with that of the members of the National Council electing him.

Sec. 53. The auditor of accounts shall be required to enter into bond, to be given to, and be filed in the office of the Principal Chief, in the sum of three thousand dollars, with at least three sureties, according to law, and shall be required to take the following oath, to-wit:

I, ——— as auditor, do solemnly swear (or affirm), that I will make and keep a correct registry of all certificates of national indebtedness, authorized by law to be registered; that I will faithfully and impartially register the same to the persons owning or presenting them, as required of me by law to do, and that I will, to the best of my skill and ability, perform all the duties required of me by law. So help me God.

Sec. 54. The auditor of accounts shall keep his office at the seat of government; he shall receive and register all certificates for services rendered the Nation, and authorized by law, that may be presented to him by the holders or owners thereof. His registry shall show the case, nature thereof, how disposed of, amount or number of days, to whom, by whom, and for what service issued, and the date of each certificate, with the number thereof.

Sec. 55. All persons holding certificates issued between the 1st day of October, and 31st day of March, shall be required to present them to the auditor for registry, from the 1st day of April to the 20th day thereof, and all

certificates issued between the 1st day of April and 30th day of September, shall be presented in like manner, from the 1st day of October to the 20th day thereof.

Sec. 56. The auditor shall carefully compare each certificate with the report of the clerk issuing the same, and if found to correspond with the report, in all the particulars required by law, he shall register it, and write the word "registered" across the face thereof, and if found not to so correspond, he shall write upon the back "rejected," with his official signature. All the certificates presented by each person, and registered or rejected, shall be done up in a package, with the name of the person presenting them, the amount thereof, and a number corresponding to the number of the claim upon the registry of the auditor, endorsed upon the back thereof, and be filed in his office. After the 20th day of April and October, and within ten days, it shall be the duty of the national treasurer and the solicitor general, to inspect the books and accounts of the auditor; they shall carefully examine the same, compare each certificate registered or rejected with the registry of the auditor, and the report of the clerk, and if found to be correct, the Principal Chief shall draw warrants, semi-annually, in favor of the persons so having their claims audited, examined, and reported correct. All certificates not corresponding with the report of the clerk, and rejected by the auditor, shall be returned to the owner, and the clerk who issued such certificates shall be responsible to such owner for the amount of the certificates so rejected, and upon the failure or refusal of any clerk to pay the amount of certificates so rejected, the holder of such certificate may institute a suit against such clerk or his sureties, and recover double the amount of the ticket so rejected. And any clerk issuing certificates for services not authorized by law to be paid, shall be responsible, as provided above, to the holders of such certificates.

Sec. 57. During each session of the National Council, there shall be appointed by the President of the Senate

and Speaker of the Council, a committee, to consist of two members of each house, who shall be required to carefully examine the books and accounts of the auditor, and shall, with the approval of the National Council, destroy all the certificates registered by him, for the year ending the 30th of September previous.

Sec. 58. The sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby annually appropriated, out of the general fund, not otherwise appropriated, to defray the contingent expenses of the Nation, as audited by the auditor. And the Principal Chief is hereby authorized to draw warrants for the same, as provided in the section of this act, (Sec. 56) requiring the accounts of the auditor to be examined by the solicitor general and treasurer.

ARTICLE IV.

DUTIES OF SHERIFFS.

Sec. 59. There shall be one sheriff in each district, who shall enter into bond with surety approved by the Principal Chief, payable to the people of this Nation, to the amount of five thousand dollars, which bond shall be filed in the executive office, by the sheriff, before he enters upon his duties; the condition of which shall be in the following form, to-wit:

Whereas, the above bound en, ——, has been elected sheriff of —— district for the term now ensuing:—Now the condition of the above obligation is such, that if the said ——, shall well and faithfully in all things perform and execute the duties of his said office, during his continuance therein, by virtue of said election, without fraud, deceit or oppression, and shall pay over all moneys, and give possession of all property, that may have come into his hands, as such sheriff, as directed by law and process of court, and shall impartially and promptly execute all lawful writs to him directed, or use his best endeavors to execute the same, and shall deliver to his successor in office all papers, articles and things pertaining and belonging to his office, then the above obligation shall be void; otherwise to be and remain in full force.

Sec. 60. The following oath shall be taken by the sheriff, and the fact certified to upon his bond:

I, A—B—having been elected to the office of sheriff of — district, do solemnly swear, that I will well and truly execute the duties of my said office as defined and required of me by law and my bond to execute, according to the best of my skill and understanding, without fear or partiality. So help me God.

Sec. 61. It shall be the duty of each sheriff to attend upon the courts which may be held in his respective district, to serve all summons and other processes which may be placed in his hands, according to the tenor of the mandates therein contained, and to take all necessary and lawful measures in the execution of the judgment of the courts committed to him to execute, and also to arrest and cause to be tried, all persons who may be charged with criminal offenses; for which last purpose, and also to summon witnesses to attend the criminal courts of this Nation, the sheriffs are authorized to go out of the limits of their respective districts.

Sec. 62. When an arrest shall be made of a person charged with a felony, it shall be the duty of the sheriff to notify the judge having jurisdiction of the case, of such arrest, without delay, and after ascertaining the time fixed for trial, to proceed to the office of the district clerk, there to obtain a list of jurors to be summoned, as provided by law. The prisoner shall be securely guarded until convicted or acquitted, and for this purpose, the sheriff shall, in all cases of manslaughter and those involving the death penalty, select and appoint as special guards of each person so charged, three citizens of good character, who shall be sworn, faithfully to do duty as guard until discharged, and the sheriff shall be authorized to administer such oath. In all criminal cases prosecuted by indictment only, except those above mentioned, the sheriff shall appoint and qualify two guards for each prisoner. And every person accused of felony shall, while under authorized arrest and guarded, be chained, except while present in court; and the sheriff may adopt and practice such other means, not enjoined in this section, and not cruel or inhuman, as he may find necessary for the safe keeping of any prisoner, at some regular place, until

acquitted: *Provided*, that any accused person shall be allowed, within the limits fixed by the constitution, to give bail for his appearance at court, at the time set for his trial, by giving bond to the sheriff with security, to his satisfaction, and to the amount to be fixed by the judge presiding in that case. Bondsmen and securities to be qualified in double the amount of the bond.

Sec. 63. In case of resistance, or strong apprehension of resistance, the sheriff may summon such a number of citizens as he shall deem necessary to assist and effect the arrest; and should any prisoner resist or attempt to escape from the execution of a lawful writ of arrest, in a case of felony, and be necessarily killed while in the act of such resistance, or attempt to escape and in order to prevent such escape, such killing shall be deemed and held to be justifiable.

Sec. 64. No sheriff shall issue any National scrip or certificates, but each sheriff shall keep in his office a book containing a list, or register, of all persons appointed or summoned by him to do National service, pursuant to law specially authorizing him to require such service. Such register shall contain the nature of the service performed, the date of appointment or summons, the number of days served and between what dates, and case or occasion requiring the service. Each special service required above to be registered by the sheriff, shall be registered as soon as the same is performed and accepted, and the servitor discharged by the sheriff from that special service, and each entry shall contain the date thereof. The expenses of each case or occasion, shall as soon as practicable after the services therein have been performed, and without unnecessary delay, be reported in full to the clerk, in such form as shall enable him promptly to issue certificates therefor, as required by law; and at the close of each fiscal quarter, or within ten days thereafter, the sheriff shall transmit to the auditor of accounts, full and certified copies

from his register, showing the expense of his office during that quarter; which reports of the sheriff shall be compared by the auditor with the reports of the clerk for the same period, and he shall note any material discrepancies or differences between them, or deficiencies in either, in his annual report.

Sec. 65. Each sheriff may appoint a deputy from under his own hand, and shall notify the district judge of such appointment. Such deputy shall, before entering upon the discharge of his duties as such, take an oath to faithfully discharge the same according to law, and the district judge shall record such appointment with the date thereof, and of the administration of the said oath. The deputy sheriffs shall be authorized to exercise the powers and perform the duties of sheriff, and shall be subject to displacement at the will of the sheriffs respectively, who may have appointed them. Each sheriff shall be responsible for the pay, conduct and behavior in office, of the deputy appointed by him.

Sec. 66. No officer empowered to serve process, except warrant for the arrest of persons charged with the commission of crime, shall serve the same, between the hours of twelve and twelve, commencing and ending the Sabbath day; and any such service shall be void, and the officer so offending shall be liable to the penalties imposed by law for neglect of serving lawful process.

Sec 67. It shall not be lawful for any sheriff to board any prisoner at any public boarding-house in the town of Tahlequah, during the sessions of the National Council.

ARTICLE V.

DUTIES OF DISTRICT CLERKS.

Sec. 68. There shall be one clerk for each of the several districts of this Nation, who shall be a resident of the district for which he may be elected, and who shall be

elected by the qualified voters thereof, and commissioned as provided by law.

Sec. 69. Each clerk so elected shall act as clerk of both the Circuit and District Court of his district, at the regular and special terms thereof, and also act as clerk in all criminal cases triable by a supreme or special judge within his district.

Sec. 70. Each clerk elected as provided in section 68, shall, on or before the 3d Monday of November following, file a bond in double the amount of his salary, conditioned upon the faithful performance of the duties of his office, which bond, or any part thereof, shall be recoverable in a civil suit for damages, sustained by any citizen, by reason of the malpractice, wilfull neglect, omission or refusal to do duty, on part of any clerk filing such bond.

Sec. 71. The district clerk shall also, before he shall enter upon the duties of his office, take the following oath:

I do solemnly swear (or affirm) that I will carefully file and preserve all books, papers and documents that may come into my possession, or be placed in my charge, by virtue of my office, and the same with the furniture and things belonging to the office, safely transmit unimpaired to my successor in office, upon notice from him of his readiness to receive them, that I will true record make of all matters and things required of me by law or the court to record, and that I will faithfully and truly execute all other duties which may devolve upon me to perform by virtue of my office, without favor, affection or partiality, and to the best of my ability. So help me God.

Which oath shall be certified to as having been taken, on the back of his bond.

Sec. 72. Should a vacancy occur, from any cause, in the office of district clerk, or in any other office of the judicial or executive departments, created by law, and not provided for by the constitution, the Principal Chief may temporarily fill such vacancy by appointment until the vacant office shall be permanently filled for the remainder of the unexpired term, as provided by law.

Sec. 73. Each clerk shall keep a set of books, one of which shall be separately devoted to each of the following matters of record, to-wit:

1st. The registration of all regular appointments made within his district in conformity to law, including those of administrators, guardians, appraisers of property, superintendents, judges, and clerks of election, &c. &c., showing what person appointed, time of appointment, and for what special purpose.

2d. Copies in full of all schedules of property required by law to be made and returned to the district judge, with the lawful appraisements of the articles respectively, and special reports of appraisers, if any, in connection with such schedules.

3d. Synopsis of all bonds filed in the office of the district judge, showing for what purpose or upon what condition given, names of principals and sureties to each, date and amount, and to whom given, and also the names, with date, of any additional sureties required to be given to any bond already filed.

4th. Wills purporting to be of deceased persons, verbal or written, as proven, or attempted to be proven, to the satisfaction of the district judge, with certificate attached to the record that the will has been so proven, or not, as case may be.

5th. Reports of administrators and other appointees, of the description of property placed in their trust, including settlements with heirs, wards, creditors or other appointees.

6th. Criminal cases tried by the district court, with all proceedings had in open court, except testimony of witnesses.

7th. Criminal cases tried by a circuit or supreme judge, with record of all proceedings in each case, including that of testimony given in such case.

8th. Civil cases tried by the district court, with proceedings of court in each case in full, from institution to disposition of case, except testimony of witnesses.

9th. Civil cases tried by the circuit court, with proceedings in cases liable to be appealed, the oral testimony in each case in full, and including testimony of witnesses originally given, and copies of all documentary testimony.

10th. Stray property as reported and sold by the sheriff, copied in full from his returns of same, as required by law.

11th. Marks and brands of stock, as provided to be recorded by law.

12th. Improvements, showing location of each, and by whom claimed or owned, as provided to be recorded by law.

Sec. 74. The originals of all matters of record, having reference to the action of the district judge, had between the regular terms of the district court, or to any returns, applications, and reports made to him during the same time,—shall, as speedily as possible, and in no case with longer delay than one month,—be transmitted by the district judge to the district clerk, to be filed in his office, and recorded as required.

Sec. 75. All matters required by law to be recorded by the district clerk, shall be placed by him on record in the appropriate book, without unnecessary delay; and he shall attach an index to each book, at the time of record, of each matter recorded, to assist reference and examination.

Sec. 76. The records of the office of the district clerk, or any part thereof, shall, when so desired by any citizen as to any particular matter recorded, be submitted to his inspection by the clerk at any time during office hours, with the assistance and only in the presence of the clerk.

Sec. 77. All lawful official documents, or process issued by any district clerk, shall bear the seal of the district.

Sec. 78. Each clerk shall issue, on blanks furnished him for that purpose by the national treasurer, certificates of all services done the Nation, within his district, by jurymen,

guards, witnesses, interpreters, and other persons not otherwise ordered to be paid, of whom special service to the Nation may be required by law, and who the law provides shall receive per diem compensation. Each certificate issued by him, shall be numbered in the order in which it is issued, from the commencement to the end of each fiscal year, beginning with number one; and shall also designate the time served, kind of service, when the service was done, name of person serving, and date of issuance of certificate. For service done in criminal cases, the certificate shall specify, also, the name of the party charged, nature of accusation, and disposition of case. All certificates shall be signed officially by the clerk, and bear the stamp of the district seal.

Sec. 79. The national treasurer shall furnish each clerk, when applied for by him, with "neatly printed" blank forms of "National Scrip," for the issuing of certificates; and no certificate shall be issued by any clerk, except upon blanks so furnished. The treasurer shall stamp the blanks so furnished by him, with the seal of his office, and shall take a receipt from each clerk for the number each time to him provided. The treasurer shall also furnish each district clerk with a seal for his office, bearing on the margin the name of the District and Nation, and in the centre the word "Justice."

Sec. 80. Each clerk shall keep a register of all certificates issued as above required, for services proved before him, and a separate register of all certificates issued for services proven before the sheriff, and reported by the sheriff to him, to be certified to and paid. Each clerk shall also be required to furnish on oath, quarterly reports to the auditor of accounts, within ten days after the expiration of each quarter. The first quarter shall end December 31st, the second March 31st, the third June 30th, and the fourth, or last quarter, September 30th; from which reports, the auditor shall furnish, on oath, the treasurer with quarterly abstracts. Certificates shall be accurately described in

registers of the same, as required by law to be issued, for the prevention of fraud, and their certain identification and approval by the auditor.

Sec. 81. For every failure on part of any clerk to furnish the auditor of accounts with registers of certificates and reports, as before required, and within the time required, he shall forfeit to the Nation as a penalty for such failure, twenty-five dollars, which sum the auditor shall deduct from the salary of such clerk in his register of salaries of officers, and shall at once enter upon such register the cause of such deduction; and for every failure on part of the auditor to make such deduction when authorized and required by him to be made, a fine of fifty dollars is hereby imposed upon such auditor for such omission of duty, which shall be deducted and withheld by the treasurer from his salary.

Sec. 82. The Principal Chief is hereby authorized to furnish each clerk, for the use of the circuit and district courts, such dockets as may be necessary in conducting the business thereof, and to purchase by wholesale, all paper, ink, envelopes, blank-books and other stationery, of uniform quality, required for the use of the national council, executive office, supreme court and district clerks; and the Principal Chief shall report all purchases made under this provision, to the National Council, at the session following.

Sec. 83. The district clerks contemplated by this act, shall each receive a salary of five hundred dollars per annum, payable out of the general fund, and be allowed to charge and collect a fee of twenty-five cents for all papers of private or personal character executed by them, not exceeding one page legal cap, or two hundred words—fifty cents for all papers exceeding two hundred words, and twenty-five cents for every additional or fraction of two hundred words; *provided, however*, that no additional pay over and above his salary, shall be allowed any clerk for services required by law to be rendered by him.

Sec. 84. Each clerk shall, when necessary, have the right, by written notice to appoint a deputy clerk, which appointment when made, shall be reported without delay to the district judge, and such deputy clerk shall take the oath prescribed to be taken by the clerk, and who shall be only authorized during the period of his appointment, unless sooner removed by the clerk, to discharge the duties of the office specially designated for him to perform in his written appointment, and the deputy clerk shall be compensated for his services—as such—out of the salary of the clerk, according to the contract in such case made between them.

Sec. 85. When in any criminal case the clerk shall be unable to attend a called session of any court within his district, and no deputy clerk shall appear in his place, the court shall be authorized to appoint and qualify, for the special occasion, a clerk "*pro tempore*," who shall act as such during that session, and the clerk so appointed, shall be required upon the adjournment, to supply a statement of the proceedings of the court, during that session, with the proven expenses of the same, duly certified to by him, to the district clerk; and for the accuracy of such report of proceedings and expenses by any clerk "*pro tem*," the district clerk shall be held responsible. And for and in consideration of the services of any clerk "*pro tem*," appointed in pursuance of this section, such clerk shall receive, upon the certificate of the presiding judge, five dollars per day, of actual service, to be deducted from the salary of the district clerk by the auditor of accounts.

ARTICLE VI.

DUTIES OF EXECUTIVE COUNCIL.

Sec. 86. The Executive Council shall consist of three members, who shall be elected in the manner, and whose term of office shall be as defined by the constitution. They

shall perform such duties as are required of them by the constitution, and such as are or may be required of them by law.

ARTICLE VII.

DUTIES OF SOLICITOR GENERAL.

Sec. 87. The office of Solicitor General is hereby created.

Sec. 88. The solicitor general shall be elected at the same time, and in the manner, that the executive councilors are elected, and his term of office shall be that of the National Council electing him.

Sec. 89. It shall be the duty of the solicitor general, to attend the sessions of the supreme court, and defend or prosecute any suit before said court in which the Cherokee Nation may be a party, or wherein the Cherokee Nation may be interested, or when, in any case, he may be required by the Principal Chief.

Sec. 90. He shall give his opinion, in writing, on all questions affecting the public interest, when required by the Principal Chief, treasurer, auditor, or any of the district solicitors. And when, in the opinion of the Principal Chief, it shall be deemed necessary to the public interests, or the proper administration of law, he shall appear and defend, or prosecute, any suits, either civil or criminal, in any of the courts of the Nation.

Sec. 91. He shall, as required by law, with the treasurer of the Nation, examine the accounts of the auditor, and perform such other duties as may, by law, be required of him.

CHAPTER II.

AN ACT RELATING TO THE ORGANIZATION OF THE NATIONAL COUNCIL.

ARTICLE I.

ORGANIZATION OF THE NATIONAL COUNCIL.

Sec. 1. The National Council of the Cherokee Nation shall meet annually at the time and place fixed by law.

Sec. 2. Members elect to the National Council, shall take their seats at the time of meeting of the first annual session thereof, after the general biennial elections at which they shall have been elected, and shall constitute a new council; and such new council shall be organized as hereinafter provided.

Sec. 3. Certificates of election shall be deemed good and sufficient evidence of the election of the persons holding the same, unless in cases of contests, as provided for by law.

Sec. 4. As soon as a majority of the members elect to either branch of the National Council, shall have assembled at the seat of government, such majority shall constitute a quorum competent to transact business, and shall, without delay, proceed to organize the new senate and council; for which purpose, they shall elect one of their number temporary chairman, and some one as clerk *pro tem.* The chairman shall call the house to order, receive the credentials of the members claiming seats, and read them aloud for the information of all. The clerk shall enroll the names of the members, district by district, and keep a correct minute of the proceedings, which shall afterwards be entered upon the journal of the senate or council, as the case may be. The chairman shall then, and as soon as may be, summon the chief justice, or any other officer authorized to

administer oaths, who shall qualify such members elect, but no person, whose seat is contested, shall be qualified while the case is pending. The constitutional oath of office may be administered to the members elect, by districts, or by persons, or otherwise, according to circumstances, each house exercising the right to judge of the elections, the returns, and the qualifications of its own members.

Sec. 5. The members thus qualified, and being a majority, or quorum, of the whole number of members of the senate or council, as the case may be, shall at once proceed to vote "*viva voce*" for a president of the senate, or speaker of the council, as the case may be, and for one chief clerk, and one assistant or enrolling clerk, and such interpreters as shall be necessary and authorized by law.

Sec. 6. No person shall be chosen president of the senate, or speaker of the council, unless eligible to the office of Principal Chief. Any number of members may compete for the office of president of the senate or speaker of the council. The voting shall be in the order in which the roll is called by the clerk *pro tem.*, and the candidate receiving the greatest number of votes cast, and a majority of the whole number cast, shall be president of the senate or speaker of the council, as the case may be: *provided*, that, should there be three or more candidates, neither one of whom shall have received a majority of the whole number of votes cast, then, and in that case, the candidates receiving the greatest number of votes, shall be voted for; and the one receiving the greatest number of votes, shall be declared duly elected; *provided, also*, that, the whole number of votes cast, shall be a quorum of the whole number of members.

Sec. 7. There shall then, and in like manner be elected, one chief clerk and one assistant clerk, and two interpreters, to each branch of the National Council so electing such clerks and interpreters; and such clerks and interpreters shall, before entering upon the duties of their

offices, take an oath to faithfully discharge the duties thereof, to the best of their ability; whereupon such president of the senate, speaker of the council, and the clerks and interpreters thereof, shall be duly qualified to enter upon the discharge of their official duties; and such senate and council, so organized, shall constitute the National Council, competent and ready for the transaction of business.

Sec. 8. The president of the senate and speaker of the council, shall preside over the deliberations of their respective branches of the National Council, and shall be subject to such rules as may be adopted for the government of the same. Their term of service, and that of the clerks and interpreters, shall expire at the same time with the expiration of the term of service of those electing them, unless sooner removed.

Sec. 9. The clerks and interpreters of the senate and council may be removed by the body electing them, for any neglect or abuse of their official duties, or for incompetency in office.

Sec. 10. The chief clerks of the senate and council shall keep neat and correct records of the proceedings of their respective houses, and read the journal of business as often as may be required.

Sec. 11. The assistant or enrolling clerks, shall aid the chief clerk in his duties, and perform such general and special services as may be assigned him by the chief clerk, or by the branch of the council of which he is assistant clerk.

Sec. 12. The assistant or enrolling clerk shall be competent to act as chief clerk, and shall so act in the absence of the chief clerk.

Sec. 13. The interpreters of the senate and council shall interpret into English and Cherokee, all acts, resolutions,

motions, speeches and other things or subjects necessary to be interpreted; whereby every member may fully understand every subject or matter claiming legislative notice. Each branch of the National Council may dispense with one or all of its interpreters, whenever it may deem it expedient so to do, and whenever the public interests will not suffer thereby.

Sec. 14. It shall be the imperative duty of the chief clerks of the senate and council, to act as the custodians of the books and papers of the senate and council. They shall each be personally responsible for the safe keeping of every bill, joint resolution, memorial, report, message or other document or paper pertaining to legislation, which shall come to their hands or to the hands of their assistant clerks, from any member, committee, or officer of the National Council, or either branch thereof; and shall keep a record of all such bills and other papers pertaining to legislation; which record shall show the disposition made of the same.

Sec. 15. As soon as the senate and the council shall have effected a permanent organization, they or either branch thereof, shall notify the Principal Chief of the same, and the Principal Chief shall immediately transmit to the president of the senate, such election returns as he may have in his possession, made by law returnable to the National Council; which returns shall be opened, examined and passed upon by the senate and council in joint session, as hereinafter provided, before the transaction of any other public business: *provided, however*, that election returns for Principal and Assistant Principal Chiefs, shall be examined first; and such chiefs elect shall at once be installed as hereinafter provided.

Sec. 16. Members not present at the regular organization of the National Council, and those elected to fill vacancies, may be installed at any time by taking the constitutional oath.

CHAPTER III.

AN ACT RELATING TO THE JUDICIARY.

ART. I. General Provisions.
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III. Circuit Court.
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ARTICLE I.

GENERAL PROVISIONS.

Sec. 1. The courts established under the government of this Nation, shall have cognizance of all suits arising under the constitution and laws of the Cherokee Nation, and of cases originating under the laws and usages of the Eastern Cherokees, existing previous to their removal, and of those under the laws and usages in existence among the Western Cherokees, prior to the Act of Union, dated the 12th day of July, 1839; and the adjudication of all questions, shall be according to the provisions of the respective laws under which they originated.

Sec. 2. All citizens of this Nation, and all persons not citizens, who may be admitted by law to reside therein, in the employ of citizens, shall have the right to appeal and be subject to the jurisdiction of Cherokee courts, for the determination of all causes of action at law, that may grow out of the lawful intercourse of the parties.

Sec. 3. The commencement of all suits shall be by summons, obtained from the clerk of the district in which

the party sued shall be resident (except in cases expressly provided for otherwise by law), which summons shall, as exactly as practicable, describe the property sued for, or state the amount claimed, and also, for the proper understanding of the issue by the defendant, and the court shall concisely state the nature of the case, and the principal grounds upon which the claim is founded. Such summons must be served by some lawful officer, at least thirty days before the holding of the court having jurisdiction of the cause, and be returned to the clerk at or before the commencement of the term next following of such court. And the court shall give judgment as the right of the matter in law shall appear, without regarding any formal defect or verbal imperfection in such summons.

Sec. 4. Every summons shall run in the name of the Cherokee Nation, in the following form, to-wit:

CHEROKEE NATION, }
——— DISTRICT. }

And shall be directed and issued substantially in the following form, or to the like effect:

TO ANY LAWFUL OFFICER, GREETING:—

You are hereby commanded to summon (here insert the name of defendant), to appear at the lawful place of holding court in said district, on the (here insert on what Monday of the month, and what year, court time shall commence), there and then to answer the demand of (here insert the name of plaintiff), who claims the right (or right of possession), to certain property now in defendant's possession, to-wit: (here describe the property sued for, sufficiently clear for indentification), such property being worth, at a moderate estimation, in cash (here insert probable or appraised value at length), and for cause of action, plaintiff alleges, that (here state the nature of the case and ground of claim, in clear and concise language, so that the opposite party may acquire information of the main and essential facts, upon which plaintiff intends to rely, to establish his right).

Sec. 5. If the claim is for a definite sum of money, insert after "who claims," in above form, the words, "a certain sum of money, to-wit:" (then state the sum demanded, with interest, if any), and for ground of such demand, alleges that (state nature of case as required in above form.)

Sec. 6. If for any indefinite sum, state the largest amount plaintiff can expect to recover, and add, "or so much thereof as the court shall adjudge to be due," and close as before, with a statement of cause of action.

Sec. 7. After the nature of the case is stated, as required, the summons shall conclude as follows:

Fail not to execute this summons within the time, and return as required by law. Given under my hand and seal of office, on this the ——— day of ——— A. D. 18—.

Signed ——— ———

Clerk ——— Court ——— District.

Sec. 8. Any person, instituting a suit at law, when obtaining a summons for that purpose, shall file a bond, to the satisfaction of the clerk, for the payment of all the cost of that suit, conditioned upon the successful prosecution of such suit.

Sec. 9. The form of plaintiff's bond for cost, shall be substantially as follows:

Know all men by these presents, That we (insert name of plaintiff), principal, and (insert name of sureties) sureties, do hereby bind ourselves, our heirs, administrators and assigns, to pay to (insert name of clerk), clerk of ——— district, or successor in office, a sum of lawful money, sufficient to discharge all the cost that may attach to a certain suit, instituted before the ——— court of said district, wherein the above named principal of this bond is plaintiff, and (insert name of party sued), is defendant.

Signed, on this the ——— day of ——— A. D. 18—.

The condition of this obligation is, that should the aforesaid (insert name of principal), prosecute said suit to a final and successful termination, this bond shall be null and void, otherwise it shall remain in full force and effect.

Sig. ——— ——— [L.S.]

Security, ——— ——— [L.S.]

Security, ——— ——— [L.S.]

Sec. 10. No accepted and *bona fide* bond for cost of a civil or criminal suit, shall be required to be put in suit against the sureties, but execution may immediately issue upon its forfeiture against the principal and sureties. But such execution shall be served upon the property of the principal first, and if not sufficient to discharge such cost, then upon the property of the sureties.

Sec. 11. Any summons or notification authorized by law to be issued, citing or informing one of the parties to

a cause, when the case is to be tried or evidence taken, shall be served, if practicable, upon such party in person, and so certified by the officer serving. But when after diligent search, such party cannot be found within the district where he has been till that time residing, and the officer shall have cause to believe that he is trying to evade such service, such summons or notification may be served, by the officer having such service in charge, by leaving a copy in full of such summons or notification at the party's usual place of residence, with any person not less than ten years of age. And when any summons or notification is so served by copy, the original process shall be returned with a certificate of the officer, that it has been so served, with the date of such service; and such service shall be to all intents and purposes, a valid and sufficient service as against any party who may be residing or living within the limits of this Nation, at the time of the issuance of the summons.

Sec. 12. When two or more persons live in different districts who ought to be sued jointly, it shall be lawful to sue all in one of the districts, where one or more of them are resident. In such event, the summons must cite all to answer, before the court of the district wherein the suit is to be brought, and be served upon the particular defendants living therein. But duplicate summons shall be issued, corresponding in number to the number of other districts, where the other defendants reside, which shall be forwarded to the sheriffs of those districts, there to be served upon such defendants and returned as required by law. But before sending such duplicate summons abroad, the clerk issuing the same, shall endorse upon each, upon what perticular defendants it is there to be served, and also that such summons is a duplicate; and he shall also endorse upon each duplicate the defendants to be summoned.

Sec. 13. When any person has been joined to another in any civil case, either as plaintiff or defendant, who ought not to be so joined, or when any person has been omitted

to be joined as plaintiff or defendant in any suit, who ought to be joined, such non-joinder or misjoinder may, upon the showing good reasons therefor to the court by either party, and notice given to the opposite party, be amended by order of the court adding or striking out such person from the record of the case; *provided*, the consent of such person be first obtained, and such amendment shall be made without making any further delay in the proceedings than may be required to hear and determine such motion.

ARTICLE II.

SUPREME COURT.

Sec. 14. The supreme court shall consist of three judges, one of whom shall be elected by a joint vote of the National Council as Chief Justice. In the absence of the chief justice, the senior associate justice by commission, shall act as chief justice "*pro tempore.*" Any two of the judges shall form a quorum to transact business and decide cases.

Sec. 15. Each chief justice shall appoint, to serve during his term of office, a clerk of the supreme court, who may be removed from office before the expiration of the term, for neglect, inability or misconduct, by the chief justice or by the other judges. The clerk of the supreme court shall take the oath prescribed by law to be taken by the district clerks, and it shall be his duty also, to enter on a docket, to be kept for that purpose, all causes brought into this court, and to record faithfully all proceedings and decisions in books, and to preserve with care all papers and books appertaining to the business of the court.

Sec. 16. The court shall have exclusive jurisdiction of all cases instituted to contest an election held by the people, and brought before the court as provided by law. The court shall also have final jurisdiction of all cases and questions of law and evidence connected therewith, that

shall be appealed from the circuit court according to law, and the court shall have the power to decide upon the constitutionality of any act of council involved or brought in question in any case so appealed.

Sec. 17. In case all or the majority of the judges of the supreme court, are interested in any cause that may be pending before that tribunal for decision, or are related to all or any of the parties, it shall be the duty of the Principal Chief, by and with the advice and consent of the senate, to select such a number of persons of good character and knowledge as shall correspond with the number of judges so interested, or related, as shall have been objected to, and specially commission said persons for the trial of such cause.

Sec. 18. In case one of the judges of the supreme court shall be ruled off, in consequence of being interested in any cause, or of being related to all or either of the parties thereto, and the remaining two judges shall be divided and be unable to render an opinion of the court therein, it shall be the duty of the Principal Chief to appoint and especially commission a person of good character and knowledge who shall, in conjunction with the disagreeing judges constitute a court for the hearing and deciding of such cause.

Sec. 19. In case one of the justices of the supreme court shall be absent during a part of the regular session of the same, and the remaining two shall hear, and after consideration of any cause, be unable to agree upon a decision thereupon, the case shall be suspended until the whole bench are present, when the suspended case shall be considered and decided, after a rehearing from both parties.

Sec. 20. In the trial of contested elections, the court shall be confined to an examination of the returns of such election, and of the testimony relevant to the grounds set forth by the contestant in support thereof or opposition thereto, that shall be taken and forwarded to the supreme court within the time and in the manner provided by law.

Sec. 21. In the trial of all appealed cases, and of questions of law and evidence connected therewith, the court shall be confined to the papers and documents constituting each case, that shall be transmitted by the clerk of the circuit court in conformity to law, *provided* that either party shall have the right to except to the accuracy and completeness of any part of the transcript of the testimony, or other paper forwarded, upon motion to the court made previous to the argument of the case, and accompanied with particular specifications of a serious and material disagreement between the showing of the case, as transmitted, and as submitted to the lower court and filed in the clerk's office. If such motion be accepted, the question shall be determined by an examination of the clerk and of the papers belonging to that case, recorded and filed in his office, and upon suspicion of fraud entertained by the court, by any other testimony they may deem of service to expose the same, for which purpose, the court may order the immediate attendance of said clerk, with the official record of the case, for the inquiry and inspection of the court. If the court shall find the exception made as above provided, well taken, and the transmitted papers materially defective, as alleged, they shall proceed to try and decide that case upon the original record; *provided*, such record be not objected to, and if so, there shall be no just ground for suspecting a fraudulent alteration thereof. But if such fraud be evident to, or suspected by the court, the case shall be dismissed.

Sec. 22. Should any clerk be found guilty of willful neglect or fraud, in the course of the examination provided in the above section, the court shall enter their decision accordingly; and the clerk of the supreme court shall forward a copy thereof to the Principal Chief, who shall suspend the clerk, so offending, from office, and report him to the next National Council for malpractice. And the clerk, so reported and suspended, shall be responsible for the full amount of cost that may attach to the suit

dismissed for fraud, which cost shall be collected out of the salary due such clerk, and he shall forfeit, upon trial and conviction, the rest of any salary due him, at the time of suspension, to the Nation, for the use and benefit of the public schools.

Sec. 23. No case shall be continued twice (from one term to another) after the suit has been docketed and called, except by consent of the parties. But upon satisfactory showing to the court by either party, that damage to his interests involved in the case, may be reasonably apprehended from a trial at that time, on account of some accident or unexpected event connected with the suit, the court may, at its discretion, grant relief by ordering a continuance until the next term.

Sec. 24. The supreme court shall have power to make and award such judgments, orders and decrees, and to issue such writs and processes, as they may find to be necessary to carry into full effect the powers which are or may be hereafter vested in them by law.

Sec. 25. The supreme court shall have authority, within the limits of their judicial action, as prescribed by law, to exercise a general superintendence over courts of inferior jurisdiction, through and by means of decisions made and declared by the court upon questions of law, evidence, and practice, submitted to them in the course of the trial, or examination of all causes of which they shall be allowed cognizance by law.

Sec. 26. The court shall have power to prescribe, from time to time, such rules of practice for regulating the procedure in the trial of cases in the lower courts, as they may deem necessary, expedient or serviceable, and which shall not conflict with the rules prescribed by law. And the object of the court in prescribing such rules, shall be, the more speedy and accurate presentation of the issue or

point of difference between the parties, the exclusion of unnecessary and irrelevant testimony, and the more certain administration of justice.

Sec. 27. After the docket has been disposed of at each term of the court, the court shall continue in session for the consideration of reports of the judges of the circuit courts and for the establishment of such rules of practice, for the use of the lower courts, as the court shall deem expedient to adopt and impose, and the clerk of the supreme court shall record the rules so adopted and imposed, as part of the proceedings of the court, and shall, previous to the next regular term of the respective courts, or whenever applied to by any of the judges, prepare and furnish a certified copy of such rules to such judge, for his information and guidance.

Sec. 28. When an appealed case is opened for consideration by the supreme court, the court shall first consider and decide such questions, if any, of evidence, as may have been appealed from the decision of the circuit court. Should the court decide that the testimony offered and excluded in the court below, ought to be admitted, or that testimony there admitted ought to be excluded, or in either case shall confirm the decision of the court below, they shall proceed to try and decide the case upon that part of the testimony transmitted, or the whole thereof, as shall be found by them to be proper evidence in the case.

Sec. 29. All decisions of the supreme court, (intermediate and final,) shall be made and rendered, as well for the government and guidance of the lower courts and the citizens of this Nation in general, as for the just and true interpretation of the law, and the settlement of the dispute and administration of justice between the parties. Accordingly, each decision shall be accompanied with a statement, as far and as full as may be practicable, or necessary for the purpose, of the grounds in law or evidence upon and by reason of which, such decision has been made. Each

decision shall be attended or preceded by a distinct statement of the issue between the parties, the situation of the case as set forth by the evidence before the court, the law or laws governing the case, and the interpretation and application of the same by the court, with the reasons therefor, and the principles of law or evidence involved in the suit and affecting the decision thereof; and of such other matters and considerations, having relation to the decision, which the court may deem essential to give value and force to a law precedent, for the government and guidance of the courts and citizens of the Nation, in similar cases arising thereafter.

Sec. 30. All decisions made by the supreme court shall have the force of law, as to the construction and application thereof, in all the courts of this Nation, until such construction or application shall be limited, altered, or in any manner amended, by a subsequent decision of a subsequent case by the supreme court.

Sec. 31. The judges of the supreme court, shall have and exercise exclusive criminal jurisdiction of all cases of manslaughter, and of all cases involving the punishment of death, which shall be instituted as required by law. And in order to ensure an equal division of labor between the judges, it shall be the duty of the Principal Chief to divide the districts of the Nation into three supreme judicial circuits, as equally as to population as may be practicable, and which circuits shall be respectively numbered, first, second and third; the district of Delaware being in the first, Tahlequah in the second, and the district of Canadian in the third. To each of the circuits, when defined, one supreme judge shall be assigned by the Principal Chief, by proclamation of such assignment made in the usual manner. Each judge, and his successors, unless disqualified by relationship, shall preside, within his circuit, over the trial of the description of cases designated above; *provided*, the Principal Chief may, at the commencement of each year, make such changes as to

the limits and extent of any circuit defined by him, and as to the assignment of the judge thereto, as he shall deem expedient. Such changes to take effect upon proclamation thereof, as provided above.

Sec. 32. Should any supreme judge be related, in any criminal case reported to him, whether to the accused or to the person upon whom the crime has been committed, and be objected to, or should he be disabled from presiding by any sufficient and lawful cause, he shall, as soon as such case is reported, transmit by the sheriff reporting the same, a written notice of such disqualification or disability, with the cause thereof, to either of the other supreme judges, who shall be authorized then to try that case; and should the judge thus notified be objected to and disqualified, likewise by relationship, or be unable to preside, he shall forward the notice received from the first judge, with a notice of the like tenor and effect from himself, to the remaining supreme judge, who shall be authorized to proceed and try that case. And should all the supreme judges be related or unable to preside in any case, the last judge to whom the case shall be reported, shall transmit the written notifications received by him from the other judges, with a like notification of the cause of his own disqualification, to the Principal Chief, who shall then appoint and commission some suitable person to preside as special judge in the trial of that case; *provided*, that, any judge notified as above, shall proceed to call court for the trial of the case reported; and no judge shall be held to be disqualified by relationship, except he be lawfully objected to for that reason, at the first calling of such case by such judge; otherwise the consent of both parties to his presiding shall be presumed as being given by both parties.

ARTICLE III.

CIRCUIT COURTS.

Sec. 33. There shall be established three judicial circuits, which shall be respectively designated and known

as the "northern," the "middle" and "southern" circuits. The northern circuit shall be composed of Delaware, Coo-we-skoo-we, Saline and Tahlequah Districts. The middle circuit shall be composed of Going Snake, Flint, Sequoyah and Illinois Districts. The southern circuit shall be composed of Canadian District.

Sec. 34. There shall be one judge elected for each circuit, by the qualified voters of the districts composing the same, at the time and places, and in the manner ordained by law, and whose term of office shall be that prescribed by the constitution, and whose election shall be determined as provided by law.

Sec. 35. The judges shall hold their respective courts in each district commencing on the days following, to wit: In Delaware and Going Snake, on the first Monday in May and September; in Coo-we-skoo and Flint, on the second Monday in May and September; in Saline and Sequoyah, on the third Monday in May and September; in Tahlequah and Illinois, on the fourth Monday in May and September; in Canadian, on the last Monday in April and August, of each year.

Sec. 36. The circuit courts shall have exclusive criminal jurisdiction of all felonies not punishable with death, and of all civil suits in which the title to real estate, or the right to the occupancy of any portion of the common domain shall be in issue, and of all other civil suits in which the amount at issue shall exceed one hundred dollars. But the court may try and decide all causes that shall be brought before it by appeal from the district court, in which the value of the demand in each case shall not be less than twenty-five dollars; and the decision of the court in cases so appealed from the district court shall be final.

Sec. 37. The circuit court shall observe and be guided by such rules regulating the mode of conducting suits in

such court, as may be established by law, and by those made and approved for that object by the supreme court, not conflicting with the former.

Sec. 38. The circuit courts shall have power to adopt and practice such other rules and methods of conducting cases therein, as it may deem proper and serviceable for the administration of justice between the parties, not inconsistent with the general rules imposed by law, or those established by the supreme court; and to make and issue such subpœnas, orders, injunctions and other processes and writs, as the court may find necessary to develop and obtain evidence, and to carry into full effect, for the finding, determining and securing the rights of both parties to a suit, the powers that are or may be given to the court by the laws of the Cherokee Nation.

Sec. 39. Each judge shall make out, arrange and number, such rules as may be adopted by him, pursuant to the authority given him in the preceding section, which rules the clerk of each court shall copy in a book to be kept for that purpose, with the rules established by law and those imposed by the supreme court. At the close of each fall term, the several judges shall forward a copy of their respective rules of practice, with such explanations as they may deem proper, to the clerk of the supreme court, to be endorsed or amended by that court.

Sec. 40. The clerks of the circuit courts shall, in all cases liable to be appealed, record in full the testimony of oral witnesses on both sides, and the proceedings of the court; and shall record, as part of the proceedings, all motions made by either party, with the rulings of the court thereon, and the general reasons therefor, as presented by the court and approved by him. And in case of an appeal, no ruling, unless excepted to at the time of its delivery, and so entered in the proceedings, shall be subject to the consideration and revision of the supreme court.

Sec. 41. When evidence offered by either party to a suit before the circuit court, shall be objected to by the other party as inadmissible, and there appears to the court to be no rule previously established by the supreme court by which the question of its admission or exclusion may be promptly determined, such testimony, if rejected by the judge, shall be separately filed with the other papers in the case, enveloped and marked as "testimony objected to and rejected," and shall, in case of an appeal, be forwarded to the supreme court as a part of the case, with the ruling of the circuit judge thereupon, for their final decision.

Sec. 42. Any testimony objected to as above, and accepted by the judge, shall, if oral, be marked by brackets and the words "objected to" written upon the margin, and, whether oral or documentary, the clerk shall clearly designate in his report of the proceedings in such case, what testimony so objected to has been received or rejected by the circuit judge, and in case of an appeal, the question of the admissibility of such testimony shall, if submitted by the party, precede the trial of the case.

Sec. 43. Any case in which the amount at issue shall exceed one hundred dollars, may be appealed to the supreme court by either party, provided an appeal be moved for before an adjournment of the court. And in the event of an appeal, a copy of the testimony of oral witnesses, and of the proceedings and decisions of the court and jury, with the original documentary testimony submitted to the court, whether original instruments or copies, shall be certified to by the clerk as the testimony rendered in that case, and be sealed up by him, with the names of the parties and the subject of dispute marked on the outside; the package shall then be directed to the chief justice of the supreme court, and placed in the hands of the sheriff of the district, to be conveyed by him to the clerk of the supreme court, on or before the first Monday of October in each year.

Sec. 44. Should the defendant, in any case, appeal as provided above from the circuit to the supreme court, the appeal shall be void, and executions shall issue upon the judgment of the circuit court, unless such defendant shall within three days after the adjournment of the regular session of the court, file a bond with security, and to an amount satisfactory to the presiding judge, for the maintenance of the suit on his part, or the payment of all lawful costs of suit.

ARTICLE IV.

DISTRICT COURTS.

Sec. 45. There shall be established one district court in each district, and one judge for each court, who shall be elected for the term of two years, by the qualified electors of their respective districts, at the time, places, and in the manner provided by law.

Sec. 46. The district courts shall have complete criminal jurisdiction of all misdemeanors, and of all civil suits in which the value of the demand shall not exceed one hundred dollars, and the decisions of the court, in all cases where the sum shall not exceed twenty-five dollars, shall be final; when over twenty-five and not over one hundred dollars, an appeal may be granted to the circuit court, and the witnesses again be summoned to appear and give testimony in that court.

Sec. 47. If the defendant takes an appeal, he shall be required to give bond and security, to the satisfaction of the judge, for the payment of all cost that may attach to that suit, as provided by law.

Sec. 48. The method of conducting suits in the district court, shall conform to the rules governing the practice established by law, and imposed by the supreme court, so far as the same can be applied in each case by the judge thereof, and it shall be his duty to impartially instruct,

advise and inform, either or both parties to any suit, as he may deem it necessary, in regard to the requirements of such rules, for the proper accomplishment of the object thereof, as declared by law.

Sec. 49. The district courts shall hold their regular terms for the trial of all civil causes, at the places respectively designated for holding court in the several districts, on the first Monday of January and July.

ARTICLE V.

JURIES.

Sec. 50. The trial of all cases, in which the issue is wholly, or in part, one of fact, and to be determined by evidence, shall be by jury, except contested elections and cases that may be brought before the supreme court by appeal from the circuit court.

Sec. 51. No person who is related to either of the parties to any suit, either by consanguinity or affinity, nor any person who is interested in the termination of a suit, or who has previously served as juror in the trial of that case, shall serve as juror in that suit. No person under the age of twenty-one years, nor any person who has been, or who shall be, convicted of any felony, nor who may be under punishment for misdemeanor, shall be summoned to serve on a jury in any case. And no member of the legislative or executive departments, or any commissioned officer of this Nation, nor any officiating minister of the gospel, practicing physician, lawyer, public ferryman, school teacher, or person older than sixty-five years, shall be compelled to serve on any jury, grand jury, or as guard.

Sec. 52. The judge of each court shall, at least thirty days before the regular term of such court, make out and furnish the sheriff with a list of names of respectable persons who shall be summoned to act as jurors, and the

judge or clerk shall administer to them the following oath: "You, and each of you, do solemnly swear, that you will well and truly try all issues that may be submitted to you, and left to your decision by the court, during the present term, and true verdicts render according to the evidence," —which oath shall authorize said jury to try all issues that may be submitted to them during that term of the court. Five persons shall constitute a jury in the trial of all civil suits, any three of whom may render a verdict.

Sec. 53. Within the two weeks immediately following the reception of his commission, each of the several judges of courts, shall make out and transmit to the clerk of his district, or of each district within his judicial circuit, a list of one hundred and forty-four names of persons, the most competent and suitable, having the qualifications of jurors, and being residents of the district, which list the clerk shall file, and write the names contained in each on separate slips of paper, and deposite and safely keep such slips in separate boxes marked "circuit court," "supreme court," and "district court." And whenever a criminal case is reported, the sheriff shall, in the presence of the clerk, draw slip by slip, by chance, from the "box" of the court having jurisdiction, the number of slips corresponding to the number of names required by law; from which slips the clerk shall make a list of names, until the number of jurors required have been obtained, and cause immediately to be summoned, the persons designated thereby to serve as a jury in that case at the time fixed for trial. If the list in either box is exhausted before the expiration of the year, additional lists of half the number may from time to time be in like manner furnished by the judge, but no person shall be again summoned to serve on a jury in the same court, until those included in the list first furnished by the judge, have served once.

Sec. 54. The judge furnishing lists of jurors, or clerks filing such lists, as provided in the preceding section, shall not give information to any person, what names

have been so selected and furnished, until they shall have been drawn by the sheriff to serve as jurors as provided; and any judge or clerk who shall give such information, shall be deemed guilty of criminal negligence and misconduct in office, and shall be removed from office therefor, by the Principal Chief.

Sec. 55. In all cases of manslaughter, and those involving a capital charge, the sheriff shall draw, to be summoned in the manner provided in the preceding section, twenty-four persons to serve as jurors, and the court, before proceeding to impanel the jury, shall propound to each one, on oath, the question, whether or not he has formed or expressed an opinion as to the guilt or innocence of the prisoner arraigned for trial; if the answer be in the affirmative, to either question, the court shall propound the further question, whether such opinion so formed or expressed, would deter him from being an impartial juror, or from rendering an impartial verdict as such. Any juror answering both questions in the affirmative shall be set aside.

Sec. 56. But any juror answering the latter question in the negative, may be interrogated by the court, or, by permission of the court, may be interrogated by either of the parties, in reference to his opinion so formed or expressed, and the court may, in its discretion, set aside such juror, upon reasonable suspicion of bias in the mind of such juror, for or against the prisoner. Other competent persons shall be immediately summoned in place of those set aside, whose qualifications to sit shall be tested in like manner, until the requisite number of twenty-four impartial and competent jurors shall be obtained, of which the prosecution shall have the right to challenge or object to six; the accused, if he choses, or upon his refusal to choose, the court shall select out of the remaining eighteen, the twelve to try the case, who shall be qualified therefor by the judge or clerk. But, in all

other criminal cases, the clerk shall summon twelve, after the same have in like manner been drawn by the sheriff, who shall be empaneled as above, the prosecution objecting to three, and the accused or court, selecting the six out of the remaining nine to try the case. No verdict shall be rendered in any criminal case, without the unanimous consent of the whole jury.

Sec. 57. In case of a disagreement of the jury, and the court being satisfied that such jury cannot agree, the jury shall be discharged, and a new jury, in like manner, impaneled to try that case.

Sec. 58. In the second, or any after trial of any criminal case, proceedings shall be conducted upon the charge preferred, as if no previous trial had been had; *provided*, either party shall be allowed to examine witnesses as to their former statements, and to introduce such statements as evidence in regard to the credibility of such witnesses.

Sec. 59. After a jury has been impaneled in the manner above prescribed, it shall be the duty of the presiding judge to place said jury in the custody of the sheriff, or his deputy, who shall keep the said jury from separating and from holding intercourse with any person, without the permission of the court, until they have rendered a verdict, or been discharged by the court; and any juror holding, or attempting to hold, any intercourse with any person, without the consent of the court, while in the custody of the sheriff, shall be peremptorily fined by the court not less than twenty-five dollars, nor more than one hundred dollars. It shall be the duty of the sheriff to furnish any jury thus placed in his custody, with necessary provisions and refreshments, the expense of which shall be paid by the Nation.

Sec. 60. In charging the jury, the judge shall, in all cases present the testimony without signifying his opinion of the weight and preponderance of the evidence. He shall

state the law applicable to the case as set forth in the summons or indictment, with such instructjons as to the kind and degree of proof required to sustain the allegations or charge, as he may deem of service, or necessary to guide the jury to a just and legal decision or verdict.

Sec. 61. If the jury shall disagree in any criminal case, the presiding judge shall require them, or either of them, to make known to him the cause of such disagreement, and if such disagreement, in whole or in part, shall be as to the meaning of the law or the application of the law to the facts found by them, the court shall instruct them thereon, in which case, the jury shall return to their deliberations, and continue the same until they agree, or the judge is satisfied they cannot agree.

Sec. 62. Before impaneling a jury in civil and criminal cases, the court shall make such enquiry of those summoned to serve, as to their legal qualifications, as he may deem necessary; and either party may at the same time allege such good cause of disqualification as he may be aware of, which alleged cause shall be examined and determined by the court. The places of those who may be disqualified shall be filled by other competent persons, to be immediately summoned.

ARTICLE VI.

GRAND JURORS.

Sec. 63. At least fourteen (14) days before the commencement of the first regular terms of the circuit and district courts, in each year, the judges of both courts shall each furnish to the sheriff of each district, a list of five names of persons, to be selected from the most respectable, intelligent and responsible citizens of the district, who shall be summoned to act as grand jurors for that district during the year, and to sit during the regular

terms of the court respectively, unless sooner discharged by the court, and if required by the solicitor, for any other period, not more than five days, and at or near the regular place of holding court, after the adjournment of the court. No person summoned to serve as grand juror shall be exempt from service, except on account of personal sickness, severe or dangerous sickness in his immediate family, or recent death, and before burial of any member thereof. In case of the absence of any person summoned as grand juror, his place shall be filled by some competent person who shall, if necessary, be summoned by special writ.

Sec. 64. At each regular term of the court, the grand jury shall be instructed by the court, and shall enter upon their duties before other business is done, or any case is called.

Sec. 65. The following oath shall be administered to the grand jurors before they proceed to business, viz:

You, and each of you, as grand jurors, for and in behalf of this, the district of ———, do solemnly swear, that you will diligently inquire and true presentment make, of all such matters and things as shall be given to you in charge; the purport of your intercourse with each other, with witnesses and with the solicitor of the district, you will keep secret while you are so engaged; that you shall indict no man for envy, hatred or malice, nor leave any man unindicted for love, fear, favor or affection, or hope of reward, but that you shall present things truly as they shall come to your knowledge, according to the law, your instructions and the evidence, and the best of your understanding of these. So help you God.

Sec. 66. After being impaneled as above, the grand jury shall elect their foreman, by ballot, who shall act as foreman during the whole term of their service. In his absence, another foreman may be elected.

Sec. 67. It shall be the duty of the grand jury, to hear and inquire into all complaints or accusations of crime or misdemeanor of which their courts respectively shall have jurisdiction; and the grand jury of the circuit court shall inquire into cases of which the supreme judges have jurisdiction, to call for and examine persons whom they

may have reason to believe may be aware of the perpetration of any indictable offense within their respective districts, to make use of all the means placed in their power, to develop a discovery of all violations of law, of which they shall have cognizance, to inquire into and to present such indictments, or discharge such accusations as shall be in conformity to law and the instructions of the court.

Sec. 68. A majority of the grand jury may find an indictment.

Sec. 69. It shall be the duty of the solicitor of the district to be in attendance at court during the sessions of each grand jury of his district, to report to said grand jury all cases of violations of law subject to their inquiry, which have been reported to him, or which may have come to his knowledge in any manner; to have present, or forthcoming, if possible, such testimony as may be required to establish a *prima facie* case, and to advise and assist the grand jury, on part of the Nation, in the prosecution of new inquiries, in the production of evidence of offenses, and in the framing of indictments for the trial of the same, when sufficient evidence has been produced.

Sec. 70. No indictment shall be found by the grand jury against any person suspected, unless from the evidence before them, the grand jury shall believe upon their oaths, that the accused is guilty of the charge preferred, and unless the evidence produced is, in their opinion, sufficient, if not contradicted or explained, to induce and justify a conviction of the offense charged by an impartial jury.

Sec. 71. The grand jury shall appoint one of their number clerk, who shall record their proceedings in general, and keep a record of all witnesses sworn and examined by them, and report their names and time of service to the district clerk, who shall issue certificates accordingly.

Sec. 72. All persons desirous of informing of, or prosecuting any offense, shall, in the intervals between the regular terms of holding courts, communicate with the solicitor of the district information of the facts connected with such case. And the solicitor shall inquire into the accusation, or case, with due diligence and care, to ascertain the probable truth of the same. Should the solicitor, after inquiry, have good cause to believe that an offense has been committed, which a disclosure of the evidence available, shall enable him to prosecute, he shall cause the witnesses to be summoned to appear before the next grand jury; and in all cases he shall report the accusation or information presented to him, from any source, with his views thereon, to the grand jury, with the probable degree, and amount of evidence in regard thereto, for their action; *provided*, that proceedings shall not have been instituted according to law by the solicitor previous to the session of the grand jury.

Sec. 73. No solicitor shall disclose to any person, except members of the grand jury, any information that may come to his knowledge through operation of the preceding section, nor shall any grand juror or officer of the court, disclose any matters pertaining to the actions or proceedings of the grand jury, nor that any indictment for felony has been found against any person not in custody or under recognisance, otherwise than by issuing or executing process on such indictment, until such person shall be arrested.

Sec. 74. No grand juror or solicitor shall state or give information, at any time, of the matter sworn or testified to by any witness who may be brought before any grand jury, nor shall he state or testify in what manner he or any other member of the jury voted on any question, or what opinion was expressed by any juror in relation to such question. And in charging the grand jury, the court shall remind them of the provisions of this and preceding sections.

Sec. 75. Witnesses shall be summoned to appear before the grand jury, by subpoena issued by the district clerk, upon application of the solicitor, or the foreman of the grand jury, and served and returned by the sheriff.

Sec. 76. Indictments shall be issued substantially in the form following, to-wit:

CHEROKEE NATION, }
——— District. } "We, the grand jury of ——— district, after carefully and impartially, and while under our several oaths, having considered certain testimony of sworn witnesses, do hereby charge one ———, with a criminal violation of the law of the Cherokee Nation, found in section ——, chapter ——, or in "an act entitled an act [state title of act], to-wit: That the said [name of accused], did on or about the [state time as near as may be], and at or about the [state place of crime], commit the crime of [state the nature of the offense and describe the act charged], which act so committed was against the peace and dignity of the Cherokee Nation."

Date ———.

Signed, ———,
Foreman of grand jury, ——— district.

Sec. 77. No grand juror, clerk, sheriff, or any other person to whom information shall come, in the course of the performance of their duties, of the finding of an indictment by the grand jury or solicitor, shall, before the arrest of the person charged, unnecessarily utter, convey, or by any means disclose such information to any other person; and any person so doing, shall be subject to be reported to the judge of the court before which the indictment is to be tried, and, if found guilty, summarily fined for contempt, not exceeding fifty dollars.

Sec. 78. The indictments found by the grand jury, shall, at the adjournment of each session, be placed by the foreman in the hands of the district clerk, who shall issue warrants of arrest accordingly, and place the same in the hands of the sheriff of the district for service. The trial of any accused person shall proceed upon the original indictment found; but in all cases after arrest, the accused shall be furnished by the clerk, with a copy of the indictment, upon his application to the clerk for the same.

Sec. 79. Whenever information of the commission of any felony within his district, shall come to the knowledge of any solicitor, at any time between the sessions of the grand jury, and the due execution of the law shall, in his opinion, make it unsafe to wait for their action, but shall require an immediate investigation of the facts of the case, with the view to prevent the escape from justice of any person or persons already arrested, or strongly suspected, or to ascertain and fix the crime upon the guilty party; he shall be required to obtain from the district clerk, subpoenas commanding the sheriff to summon such witnesses, whose testimony the said solicitor shall, after due inquiry, or from reliable information, judge to be necessary to a full and fair investigation of the matter, to appear before such clerk at some convenient time and place to be examined. The clerk shall preside over such examination, and shall reduce the material portion of the testimony of all the witnesses examined, to writing. After the examination of the witnesses that may be present, the clerk may, upon satisfactory showing by the solicitor that any material witness, already summoned, has refused to attend, or that material and available testimony has come to his knowledge too late to be obtained at that time, adjourn further examination of the matter, to some reasonable time, and if the adjournment shall be applied for to obtain the testimony of any witness, already summoned to appear, he shall issue a compulsory process, requiring the attendance of such witness. Any person under arrest upon suspicion or charge of having committed the crime under investigation, shall be duly notified by the sheriff, or other officer having him in charge, of the pending of such examination, and subpoenas for witnesses shall be issued at the instance of such person; but no adjournment shall be granted upon his application, except by consent of the solicitor. The object and purpose of the preliminary examination herein provided for, shall be to ascertain whether a crime has been committed, and if so, by whom; and the solicitor shall conduct it without special desire or

endeavor to fasten the guilt upon any particular person, further than the facts discovered or obtainable shall warrant.

Sec. 80. After the preliminary examination above provided for shall have closed, the clerk may, upon motion of the solicitor, discharge from custody any one already arrested upon charge of the crime investigated; should no sufficient proof appear to the solicitor to warrant a conviction upon trial, or should such sufficient proof appear against the prisoner, or against any other person, from the testimony produced, the solicitor shall be authorized to file an indictment in consonance with the proof produced, and warrants of arrests, and bring to trial, shall be issued accordingly.

Sec. 81. The preliminary examination above provided for, may take place, either with or without the arrest of any suspected person; but in any case of an arrest for felony by citizens, or when the solicitor shall deem it necessary to prevent the escape of any suspected person, he shall file information of the charge accordingly before the district clerk, who shall issue a warrant for temporary arrest against such suspected person to prevent his escape, until an examination can be had, as above provided.

Sec. 82. Any witness who may testify in any preliminary examination, shall, if the solicitor require it, give his personal recognizance to the clerk in the sum of two hundred dollars, for his appearance at or before any special court to be called thereafter, to try any indictment found in consequence of such examination; and should any witness refuse to give such recognizance, he shall forfeit the amount due him for attendance, and be further subject to a fine, hereby imposed, of the amount of his recognizance, for the collection of which, execution shall be immediately issued by the clerk; and no property, except improvements, shall be exempt from satisfying such execution.

Sec. 83. No warrant for arrest for felony or misdemeanor shall be issued except upon indictments found either by the grand jury, or upon application of the solicitor, as above provided; *provided*, that any citizen shall, when the solicitor shall refuse to prosecute on account of insufficient evidence, have the right to indict and prosecute another for felony or misdemeanor, after first filing a bond with good and sufficient security, satisfactory to the clerk of the district, for the payment of all costs of the prosecution to be instituted by such person, should there be no conviction; and no property, except improvements, shall be exempt from satisfying judgment upon such bond.

Sec. 84. When an indictment for murder has been found upon *ex-parte* proof or issued upon application of a citizen as provided by law, and upon trial of such indictment and a hearing from both sides, no sufficient evidence shall appear as charged, but sufficient evidence shall appear to justify a conviction for manslaughter, either in the first or second degree, it shall be lawful for the jury to find such verdict of manslaughter in the first or second degree, as the case may be, and as the facts found by them, under the law as stated and expounded by the court, may warrant.

Sec. 85. When an indictment for manslaughter in the first degree has been found, it shall be lawful, on the trial thereof, for the jury to find a verdict for manslaughter in the second degree, if the facts proved to them upon such trial shall warrant a verdict of manslaughter in the second degree, and not of the first as charged; and the presiding judge shall so charge the jury, when he shall deem it necessary.

Sec. 86. The verdict of a jury shall in no case convict any accused of any crime, other than that charged in the indictment, except as provided by law in the case of indictments for murder, or for manslaughter in the first degree.

ARTICLE VII.

CRIMINAL TRIALS.

Sec. 87. Any of the judges shall have the power to call and hold a special term of court for the trial of criminals, for offenses over which they respectively have jurisdiction. And when a case shall be reported by the sheriff to the judge having jurisdiction, he shall bring the accused to an immediate trial, without further delay than shall be necessary to enable both parties to obtain testimony, according to the provisions of law in relation thereto, unless the accused shall give bail for his appearance at the next regular term of the court, to which time, in such case, the trial may be postponed.

Sec. 88. If any circuit judge shall be related by consanguinity or affinity to either of the parties to a criminal suit, (to the person injured or to the accused,) and be objected to, he shall inform, by the sheriff, the supreme judge within whose criminal circuit the district in which such criminal suit has been instituted, is embraced, of the pendency of such case, and the fact of such relationship or interest, with the degree thereof; and the supreme judge, so notified, shall be thereupon clothed with the powers of the circuit judge for the trial of that special case, and shall fix the time of trial, and preside in the same accordingly.

Sec. 89. Should any district judge be so related, in any criminal case, and be objected to, he shall transmit information of the fact, by the sheriff of the district, to the circuit judge, within whose circuit said district may be included; and the circuit judge so notified, shall thereupon be vested with, and shall perform the powers and duties of district judge, for the trial of that special case.

Sec. 90. In case any supreme or circuit judge, who may be notified according to the provisions of the two preceding sections, shall be also disqualified by relationship in any criminal suit, such supreme or circuit judge shall, as soon

as the fact shall come lawfully to his knowledge, notify the Principal Chief, by a statement of the facts in writing, and the Principal Chief shall be authorized to appoint and commission some competent person to preside as special judge in the trial of that case.

Sec. 91. If any judge shall be related, by consanguinity or affinity, to either of the parties in a civil or criminal suit, or be interested in the termination of a civil suit, either party may, at the first calling of said suit, after it has been docketed by the clerk, object to the presiding of such judge, and if no objection be then made, the consent of both parties to his presiding shall be construed as given, and no objection shall be allowed afterwards. When objection shall be made in any civil suit, to any judge, as provided in this section, he shall transmit the same to the Principal Chief, who shall appoint a special judge to preside in that suit.

Sec. 92. The compensation of judges temporarily appointed to preside in special civil or criminal cases, shall be five dollars a day, while in actual service.

Sec. 93. When two or more defendants are jointly indicted for a criminal offense, any defendant requiring it, may be tried separately, and the prosecution may sever the trial of joint defendants when deemed necessary. But in all cases where the trial of joint defendants are severed, the court shall designate the defendant to be tried first.

Sec. 94. The trial of a criminal suit may be removed from one district to another adjoining, within the same circuit, upon satisfactory showing made to the court by the prisoner, or the prosecuting attorney, under oath, supported by the oath of two or more credible witnesses, to the effect that, owing to the prejudice existing in the public mind, a fair and impartial trial cannot be had in the district where the crime is charged to have been committed. Should the court order the trial to be removed,

the clerk shall, without delay, transmit, by the sheriff, the papers belonging to the case, to the clerk of the district to which the trial shall be removed, and the trial shall be conducted in that district, the same as though it had there originated.

Sec. 95. No judge appointed under the authority of this Nation, shall be allowed to appear as counsel or attorney, and practice law in the courts of this Nation.

ARTICLE VIII.

SOLICITORS OR PROSECUTING ATTORNEYS.

Sec. 96. A solicitor, or prosecuting attorney, shall be appointed or chosen, for each district, by a joint vote of both houses of the National Council, whose term of service shall be two years; and such solicitor, or attorney, before he enters upon the duties of his office, shall be commissioned by the Principal Chief, and shall take the following oath or affirmation, to-wit:

You do solemnly swear, that as solicitor or prosecuting attorney, for and in behalf of the Cherokee Nation, you will, to the best of your skill and ability, faithfully conduct all examinations of crimes committed, or persons charged, and prosecute all persons indicted in pursuance of authority given you by law, without fear, favor, partiality or malice, within the dictrict of ——, during your continuance in office, and that you will not take or receive any remuneration of any person charged with any criminal offense within said district, or from any one else in behalf of such person, but be faithful to the Cherokee Nation in all prosecutions, and in the performance of all other duties required of a solicitor to perform by law, to the best of your ability. So help you God.

Sec. 97. It shall be the duty of the national solicitor, to act for and in behalf of the Nation, in all suits or proceedings within his district, in which the Nation shall be a party, or shall be interested; to indict, in the manner and within the times prescribed by law, all persons within his district against whom there shall be evidence sufficient, in his opinion, to convict of a felony or a misdemeanor, and for such object, to make due and diligent inquiry into all the facts and circumstances of any complaint, crime or

misdemeanor made to him, or coming under his notice in any manner; to do his utmost to develop and submit evidence in any case reported by him, or by other means made a subject of investigation by the grand jury, and to prosecute, with intent to discover the true facts of any charge and the just administration of the law, all indictments that may be tried within his district; *provided*, that when any case has been prematurely brought, either with or without an apparent fraudulent intention to make such trial an estoppel to further prosecution, or there shall not appear to the solicitor sufficient evidence in the charge to justify a continuance of the prosecution, he may, upon motion made in open court, and with the approval of the court, before evidence be taken, enter a *nolle prosequi* in such case, and discontinue any further proceedings in the same, and such case shall be as though it had never been brought before the court, but the charge may be renewed, and the offense prosecuted under another indictment.

Sec. 98. The solicitor of each district is authorized and required to collect and dispense within his district, according to law, all fines arising from a violation of law.

ARTICLE IX.

TESTIMONY AND RULES RELATING THERETO.

Sec. 99. Any person of whatever religious belief, and of sufficient age and intelligence to comprehend the obligation of an oath, not excluded upon the ground of interest, and not otherwise disqualified by law, may be called as a witness in any suit brought before a Cherokee court. The following oath shall be administered to each witness when called for examination in any cause or proceeding, before making his statement, viz:

You do solemnly swear (or affirm), that the statement you will make, and the answers you will give, in the matter whereof you are about to be examined, shall be the truth, the whole truth, and nothing but the truth, to the best of your knowledge. So help you God.

Sec. 100. All matters properly affecting the credibility of any witness who has been examined by one party, shall be allowed to be proven by the opposite party, by means of cross examination, or by other witnesses, under the rules established by law or the supreme court, found applicable by the presiding judge. If no such rule be found applicable, the presiding judge shall determine it as justice shall appear to him to require, and shall cause his ruling on each point to be recorded, with the reasons in brief therefor.

Sec. 101. Any person having a direct, personal and pecuniary interest in the event of any civil suit at law, or any person to whose personal pecuniary loss or advantage the verdict in any civil suit may be directly used or applied, shall be disqualified, by reason of his interest in such suit, from being a witness in the same, except in cases provided otherwise by law. And the presiding judge shall construe and apply this general rule in each particular case, as the facts shall seem to him justly to warrant, whether in reference to parties to the record or not. But no indirect interest of any kind, nor any direct interest, not pecuniary, growing out of the relations of any person with the parties in interest, shall disqualify such person from testifying in any cause; but such interest may be proven upon trial, and shall go to the credibility of the witness to such degree as the jury shall, upon their oaths, see reasonable grounds.

Sec. 102. The supreme court shall be authorized to construe, interpret, explain and provide for the correct application of this rule, as occasion may require.

Sec. 103. It shall be the duty of the court, in the trial of any civil or criminal case, upon motion of either party, to order the opposite party to produce any documents, books, or papers in possession of such party, as shall be evidence in the case, and this rule may be enlarged upon, extended and explained by the supreme court, to effect

the object thereof, as occasion shall require, under the general authority granted such court to establish rules for the uniform guidance and practice of the courts.

Sec. 104. Heresay testimony shall not be generally admissible; but for the more uniform and regular practice of this rule of evidence by the courts, and in view of the modifications frequently found to be necessary in the course of its application, the supreme court shall define, limit and explain this rule, and its exceptions, with other rules to be adopted by such court, for court practice and guidance, and from time to time such court shall, by reference or otherwise, further define and explain such rule and its exceptions, as circumstances and the practice shall, in their opinion, require.

Sec. 105. All other rules respecting the competency and credibility of witnesses, and the admission, exclusion and relevancy of testimony, is hereby authorized to be made and adopted by the supreme court, consistent with the general rules provided by law, and applied by the presiding judge in each pending case, so far as such rules, or any of them, shall be applicable. In case the rules adopted shall not be adapted or applicable to any question of evidence, the presiding judge shall be authorized to so rule upon such question, as in his opinion will best subserve the purpose of testimony; but all special rulings in criminal cases, with the facts explaining them, shall be, to insure uniformity of practice, recorded by the clerk, and be by him reported in brief, yearly, to the supreme court with civil cases, on or before the first Monday of October of each year.

Sec. 106. All suits upon a note of hand, or upon any written promise, covenant, contract or sworn account whatever, shall either have a copy of the written instrument or account embodied in full in the summons, or a copy of such instrument shall be by the plaintiff left in the hands of the clerk issuing the summons, when the summons

shall be issued, for the information of the defendant; and no original document or writing upon which suit is brought, shall be allowed to be produced upon trial, unless the defendant shall have been accurately notified of the contents thereof, as provided in this section.

Sec 107. No documentary rebutting testimony shall be allowed to be produced as an off-set by the defendant, in any suit instituted upon a note of hand, promise, agreement or covenant, or upon a sworn account, unless such documentary rebutting testimony, or copies thereof, shall be transmitted to, or left in the hands of the clerk of the court issuing the summons in such suit, for the period of ten days or more, immediately preceding the first holding of the court, after the institution of the case.

ARTICLE X.

WITNESSES AND SUBPOENAS.

Sec. 108. Parties instituting and defending civil suits at law, or representing the parties in criminal prosecutions, may apply to the clerk of the court having jurisdiction of the case, for subpoenas for witnesses in their behalf, living within the limits of this Nation, or elsewhere.

Sec. 109. No case shall be continued from one term to another by the plaintiff on account of the non-attendance of oral witnesses, unless subpoenas commanding their attendance shall have been obtained in time for service, nor by the defendant for the same reason, unless subpoenas have been obtained in like time by him, or oath is made by him that information of material testimony, possible to obtain, has come to his knowledge too late for the service of a subpoena.

Sec. 110. The original subpoenas issued for a witness living outside of the Indian Territory, shall be retained

by the clerk, and kept on file with the other papers in the case, but a duplicate copy shall be furnished the party applying, for transmission to such witness.

Sec. 111. The original subpoena for any witness living within the Indian Territory, and without this Nation, shall likewise be retained by the clerk, but a duplicate shall be furnished by the clerk to the party applying, to be placed in the hands of the sheriff of the district, who shall thereto attach an official request from under his hand, requesting "any lawful officer" of the Nation where the witnesses reside, to serve and return by mail, the accompanying process, to the hands of the sheriff forwarding the same, which duplicate shall then be enclosed and directed to "sheriff or executive officer" of the particular district or division of the Nation in which the witness lives, and be mailed at the nearest post office.

Sec. 112. All process which may be issued by any judicial tribunal of any other Indian Nation within this territory, summoning a citizen of this Nation to appear before such tribunal to testify, and which shall come to the hands of any sheriff of this Nation in time for service, shall be by him promptly served and returned, or forwarded to the proper officer for that purpose.

Sec. 113. No case shall be postponed from one term of the court to another, on account of the absence of any witness living outside of the limits of this Nation, unless the court be first assured that the testimony of such witness is material; that all lawful and proper endeavors have been made by the party, to obtain his attendance, and that either sufficient time has not been had for the purpose, or that the witness, having been notified, is willing to appear, but has been unavoidably prevented, and may reasonably be expected to be present at the next term.

Sec. 114. Any person, not a citizen of this Nation, who shall refuse, or willfully neglect, to obey a subpoena to testify, either in a civil or criminal case pending before a Cherokee court, may be reported by the party obtaining such subpoena to the solicitor of the district, where such non-citizen resides, whose duty in such case shall be to report him to the proper authority for immediate removal as an intruder.

Sec. 115. Any citizen of this Nation, who shall fail to obey a lawful subpoena to testify in a civil or criminal case pending before a Cherokee court, and who shall not give timely information to the presiding judge, satisfactory to him, of good and valid reasons for his non-attendance, shall, upon complaint of the party obtaining the subpoena, setting forth the fact, and that he considered the witness important, be summoned by such judge to appear at the next regular term of the court and answer for contempt; should any citizen so summoned, fail to appear to answer, or if he appear, no valid excuse is set forth to the court's satisfaction for his non-attendace as witness, he shall be peremptorily fined for contempt, in a sum not less than twenty-five dollars, nor more than one hundred dollars, at the discretion of the court, and be moreover liable to a suit for damages by the party by whom he had been subpoenaed, to the amount of the injury done such party by his non-attendance.

Sec. 116. In all criminal trials, when a witness has been summoned and is absent without lawful excuse, or where there is reason to suspect that a witness is seeking to evade the service of a subpoena to testify, and the party desiring his testimony shall make oath that he considers the testimony of the absent witness material to him, the presiding judge shall be authorized to compel the attendance of such witness, either for or against the prisoner, by directing the clerk to issue a compulsory process, commanding the sheriff to arrest the witness, and

have him in person at the time and place fixed for trial, and the court may, at its discretion, and with due regard for the rights of the parties and the execution of the laws, continue the cause to such reasonable time or times, as will allow the attendance of any witness excusably absent, or the service of any compulsory process ordered by such court.

Sec. 117. No excuse for non-attendance on part of a witness, duly summoned to testify before any court, shall be deemed lawful and valid, unless satisfactory showing be made to the court that obedience to the summons was impossible, or would be, or would have been, attended with serious and unavoidable loss, or with probable and serious danger to his own health, or the health of his family.

Sec. 118. Witnesses summoned in any case, and serving until discharged or excused, shall be allowed one dollar for each day's attendance, including going to and returning from court.

Sec. 119. In civil cases, the compensation of witnesses in each suit shall be attached to the same as costs, and shall be paid by the party cast, and no further costs shall attach to any suit.

ARTICLE XI.

EXECUTIONS.

Sec. 120. Whenever final judgment is rendered in any case, by a court, the clerk thereof shall, within five days after the adjournment of the court, issue an execution, directed to any proper officer, to proceed forthwith and make collection from such party, to the amount of such judgment and costs; and such execution shall be returnable at the next session of said court, with a certificate of the proceedings had thereon, which shall be recorded by the clerk of said court.

Sec. 121. Property levied upon by virtue of an execution, shall be advertised by the sheriff at three of the most public places in the district, to be sold to the highest bidder; and for all sums not exceeding fifty dollars, such sale shall be advertised ten days, and for all sums over fifty dollars, twenty days notice shall be given; and the sheriff shall be allowed a fee of six *per centum* on all collections of money which may be made by him under an execution, to be deducted from the amount collected; *provided*, it shall not be lawful, except in cases otherwise expressly provided for by law, for any officer to levy upon, and sell to satisfy an execution, the following property, which is hereby exempted and reserved for the use and benefit of the owners thereof, viz: The house, farm and other improvements, mechanical tools, manufacturing and farming implements, one span of horses or mules, or in lieu thereof, one yoke of oxen, one wagon, one pair of harness, one saddle and bridle, wearing apparel, fire-arms, library, household and kitchen furniture, two hundred and fifty bushels of corn or other grain, one thousand pounds of pork or bacon, twenty head of stock hogs, five cows and calves, and all domestic fowls: *and provided further*, that the above exemptions, except so far as improvements are concerned, shall not apply to any case wherein a person shall be required by law to give bond, and who shall give bond for the maintenance, security or preservation of national or individual interests; and this proviso shall extend to the sureties of such bond in like manner as the principal; but all the property and effects of any such principal or surety, with the above exception, shall be liable to be levied upon to satisfy any execution which may be issued upon any final judgment of the court declaring a forfeiture of such bond.

Sec. 122. Any execution remaining unsatisfied, in whole or in part, at the next term of the court after its issuance, may, at the request of the party in whose favor it has been issued, be delivered to him by the clerk, who shall make

record of such delivery. And any lawful officer shall be authorized, upon the application of the party holding such execution, at any time, to serve, in whole or in part, such execution upon any property of the debtor subject to levy, until the execution shall be fully satisfied, when it shall be returned, as provided above, to the clerk of the court from whence it issued, for a record of the proceedings had therein. And any officer serving such execution at any time, in part, shall endorse upon it a certificate of the amount of such service, for record.

ARTICLE XII.

LIMITATION OF ACTIONS.

Sec. 123. Judgment shall not be rendered for the recovery of any improvement upon the public domain in any suit brought before the courts of this Nation, unless such suit be instituted, as required by law, within three years next after the time at which the right of bringing suit for the recovery thereof, or the cause of action shall have accrued to the person claiming the same, or to the person through whom he claims, saving to minors and persons "*non compos mentes*," the three years named above after the removal of their disabilities.

Sec. 124. Judgment shall not be rendered upon any written contract, obligation, or note of hand, in any suit brought before the courts of this Nation, unless suit be instituted thereafter, as required by law, within five years next after the time at which the cause of action shall have accrued to the person bringing the same, or to the person through whom he claims, saving to minors and persons *non compos mentes*, the three years above named next after the removal of their disabilities.

Sec. 125. Judgment shall not be rendered for the recovery of any claim or demand, except as provided in the two preceding sections, in any suit brought before the

courts of this Nation, unless such suit be instituted for the recovery thereof, as required by law, within two years next after the time at which the cause of action shall have been accrued to the person bringing the same, or to the person through whom he claims; *provided*, it is made the duty of every administrator, guardian and executor, to bring suit for the claims or demands due any estate or ward, within the time herein above specified, or such claims shall not be recoverable by law; and any administrator, executor or guardian, neglecting or failing so to do, shall be liable to the parties in interest for such failure or neglect.

Sec. 126 No criminal procedure, excepting in cases of felony or larceny, wherein the sum is over twenty-five dollars, shall be instituted against any person, unless within two years after the cause of action shall have arisen.

ARTICLE XIII.

GARNISHMENT.

Sec. 127. The clerks of the several districts, on the oath of any plaintiff to a suit, or in whose favor judgment may have been rendered by any court in a suit, that he has reasons to believe that any person has in his possession any money or property, belonging to the defendant therein, and that he further believes that such defendant has not in his possession visible property sufficient to satisfy plaintiff's demands, shall issue a summons of garnishment, directed to the sheriff of the district wherein such garnisher may reside, commanding him to summon such person, to be and appear at the time and place in the district, designated, to answer on oath whether he has in his possession any money or property belonging to the defendant, and in what sum, and in what kind, or had at the time of the service of the garnishment. The garnishee answering affirmatively, shall be required to retain such property or

money, so held, in his possession until the termination of suit, or be answerable to plaintiff for the same, and be liable to damages for such loss as the plaintiff may thereby sustain; but if judgment be had against the defendant, such property or money shall be delivered to the sheriff, who shall dispose of the same as the judgment of the court may require.

Sec. 128. Any person willfully failing or refusing to obey any summons of garnishment, as served upon him, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty-five, nor exceeding one hundred dollars, and in default of payment, be imprisoned not less than thirty, nor exceeding ninety days, at the discretion of the court.

ARTICLE XIV.

ATTACHMENTS.

Sec. 129. That it shall be lawful, whenever any person shall have a claim or debt against another, for such person to go before any of the judges or clerks, and make oath that he has such claim, or debt, and that he either has commenced suit upon the same, or that he is about to commence suit, also to make oath that he is apprehensive that the defendant is about to abscond, or that he has good reasons to apprehend that the defendant may dispose of the property claimed, or liable to satisfy such debt, so as to place it beyond the reach of law; and it shall be the duty of the judge or clerk, before whom such oath, in any case, may be made, to issue an attachment forthwith, to be placed in the hands of any lawful officer, whose duty it shall be to attach the property of defendant, liable to satisfy the debt, as will satisfy the demand, and the same to safely keep, until authorized by law, or the order or judgment of the court having jurisdiction of the suit,—having reference to such property,—to release the same, or serve an execution thereon, unless the debtor, or defendant,

or person out of whose possession the property shall have been sued, shall secure the claim or debt, by giving bond, with sufficient security, personal or collateral, satisfactory to the sheriff, either for the forthcoming of the property at the final termination of the suit, or for the payment of the alleged debt, in case the same be adjudged due, in which event, the sheriff shall release the property attached, to the defendant, to use and take charge of during the pending of the suit.

Sec. 130. All property under attachment shall be considered in the legal possession of the sheriff holding such property under attachment; and any person taking, secreting, making use or disposing of such property, while so attached, without the permission of the sheriff, shall be deemed guilty of theft, and be punished accordingly.

Sec. 131. Should the defendant give bond, as above provided, and the plaintiff make complaint to the sheriff that the security upon such bond is insufficient, by which insufficiency the plaintiff should lose his remedy by attachment, or any part thereof, in such case, the sheriff shall be personally responsible to the plaintiff, to the amount of the value of the property attached and not forth-coming, according to the terms of the bond; and the sheriff, after satisfying the plaintiff, as in this section provided, may have recourse to make himself secure against the principal and sureties of the bond, to the amount paid by him to the plaintiff.

Sec. 132. Any attachment issued before the issuance of a summons in the suit, shall be annulled, and be of no effect or force, and the property thereupon attached, shall be returned to the person out of whose possession it shall be sued, unless suit shall be instituted by the claimant or creditor within five days after the day upon which the attachment is issued, and notice of such failure to institute suit being received by the officer holding such attachment. And any person applying for and obtaining an attachment,

and not instituting suit within fifteen days thereafter, as provided, shall be responsible to the amount of any damage done by the service of such attachment, to be recovered upon suit by the party injured.

Sec. 133. Whenever the property of any person shall be attached or levied upon, to secure the payment of the debt of another, the owner of such property so attached or levied upon, shall have the right to go before the judge or clerk, where such attachment or execution may have issued, and establish his right to the same, after due notice shall have been given to the plaintiff in the case, wherein the property in question has been made subject to attachment or levy, of the time, place, and object of such investigation. Such proof shall be taken in writing, and filed in the office of the district clerk, and shall show that the property in question does belong of right to claimant, and did rightfully belong to the claimant, or to the estate, or person, of whom, or which, the claimant is lawfully in charge, before the service of such attachment or execution; and whenever such proof is made to the satisfaction of the judge or clerk, it shall be his duty to give an order forthwith to the officer having such property under attachment or levy, to deliver it to the owner thereof.

Sec. 134. No property belonging respectively to the wife shall be taken to secure the payment of the debts of the husband, without her consent, nor shall any property separately belonging to the husband, be taken to pay the debts of his wife, without the consent of the husband, and property belonging separately to either, attached or levied upon to secure the payment of the debts of the other, may be released as in other cases; *provided*, that where man and wife are living together, and hold property jointly, such property shall be subject to the payment of debts contracted by either, while so living together. And *provided, further*, that no property acquired by a man and his wife, while living together, shall be made the separate

and individual property of the wife by transfer of the title, or any part thereof, to her from the husband, except a copy of such transfer be first filed in the office of the district clerk of the district where the parties reside.

Sec. 135. Any person who shall fraudulently, collusively and wrongfully, set up a claim to the ownership of any property under attachment or execution, with a view to release the same, as provided above, or who shall willfully claim such property under and by virtue of any title, except lawful conveyance to him made for good or valuable consideration, prior to the seizure of such property, then under attachment or execution, by authority of either writ, through and by which false and fraudulent claims, such property shall be released, shall be deemed guilty of a criminal misdemeanor, and, upon conviction, shall be fined in a sum double the amount of the value of the property so fraudulently claimed and released from attachment or execution, and shall also be imprisoned not less than three months, nor more than one year, at the discretion of the court.

ARTICLE XV.

POSSESSION OF PROPERTY.

Sec. 136. Any person having peaceable possession of private property, obtained through lawful means, and claiming a limited or absolute right in the same, shall be held, in law, to have a prior right of possession thereto, against all persons obtaining possession thereafter, until the right of such person shall expire, or be by him transferred to another for good or valuable consideration, or until his right shall be disputed and invalidated by due course of law. And any person having a prior right of possession of any property, to any other person, and the property being detained by the latter from the former, without his voluntary consent, may recover such property upon suit for possession merely, without regard to, or investigation

had by the court, of other or higher title, either in plaintiff or defendant of such suit. But such person may submit to the court as plaintiff, the general question of right, involving the right of possession of the property, or be awarded possession of such property merely as provided above, with the right accruing of answering as defendant in all suits involving the right, title and interest of the parties to such property.

Sec. 137. Any lessee, borrower, agent or person, who may obtain temporary possession of any private property, for a definite time, or at will, by lawful contract, shall be estopped by such contract from claiming or defending continued possession of such property, by virtue of a title adverse to the terms of such contract, or any right decreed from a third party; but the court shall compel a restoration of such property, according to contract, with such actual and exemplary damages claimed, as may be just.

Sec. 138. Suits for the recovery of property shall be instituted against the person having the property in legal possession and control; but in any suit by a third party against any lessee or agent of another, holding property of another in his possession, in which suit the right of the principal in such property is mainly involved, such fact being brought to the notice of the court at the calling of the case, by disclaimer of ownership on part of defendant, the court shall order the name of the principal to be placed upon the record as party defendant in that suit, and judgment shall be rendered accordingly.

Sec. 139. Property shall be held to be in the legal possession and control of any person, when in his actual possession, or in the actual possession of any person in the service or employment of such defendant, temporarily to use or take charge thereof. When property consists of stock, the possession thereof shall be determined as provided by law.

ARTICLE XVI.

GENERAL RULES.

Sec. 140. Each court shall have the right to make and enforce such regulations for the orderly transaction of business, and the preservation of order in and about the court, during its sessions, as may be deemed necessary and proper, and which shall not be in violation of law; and for every contempt or disrespect offered, or obstruction of business by the improper conduct of individuals, the court may impose a fine, on any such person so offending, of not less than one, nor more than fifty dollars, at its discretion.

Sec. 141. When any court is organized at any regular term, the sheriff shall, at the bidding of the judge, call the parties to each case in the order in which the cases shall be entered upon the docket, three several times, at intervals of not less than one hour between each calling; and all cases not previously disposed of, shall be finally disposed of for that term at the third calling, unless both parties consent otherwise; *provided*, that the parties to any suit, answering to their names at the first or second calling, shall then have the right to come to trial, if they so perfer.

Sec. 142. If at the third calling of a case, at any term, the plaintiff does not answer, either in person or by attorney, no trial of that suit shall be had, but the suit shall be dismissed at plaintiff's costs.

Sec. 143. If at the third calling of any case, at any term, the defendant does not appear in person, or by attorney, the court shall proceed to ascertain, if the summons in the case has been duly served according to law, and if so, the absence of the defendant shall be taken as confession of judgment, and the court may, upon motion of plaintiff, render final judgment in such case accordingly.

Sec. 144. Motions to abate or dismiss a suit, shall be made at the earliest practicable moment after the alleged

cause shall exist therefor, and if not then made, the right of defendant to make such motion shall be considered waived.

Sec. 145. When a civil case is submitted to the court, upon a statement of facts by the parties, to which they both agree, or when a discovery of fact is not put in trial, but the parties differ only in respect of the meaning and construction of the law thereupon, it shall be the duty of the judge to interpret and apply the law for a settlement of the dispute between the parties, and to render a decision accordingly, which decision may be appealed from, as in other cases.

Sec. 146. No suit shall be dismissed from the docket, or abated, on account of any formal defect or omission in the proceedings thereof, when such defect or omission is not the fault of the plaintiff, and the defendant is not injured thereby, or his rights jeopardized. But the court may remedy any such defect or omission, by ordering such amendment as shall agree with the facts of the case.

Sec. 147. No cause shall be continued to the term following, except upon the oath of the party making the motion to continue, that evidence material to the case is absent, which he has used all lawful means and endeavors to obtain, and which a continuance will probably enable him to obtain. Each party may continue once, but no case shall be continued a third time, except by consent of parties.

Sec. 148. The following general rules of practice for the finding of the issue, shall be applied, as far as practicable, by the several circuit and district judges in the trial of civil suits:

Sec. 149. When the parties have pronounced themselves ready for trial, the allegations contained in the summons shall be read to the defendant, and the said defen-

dant shall be required to admit or to deny the allegations in the order in which they are alleged. The answer of defendant to such allegation shall be distinctly recorded by the clerk in the proceedings, and no testimony shall be allowed in regard to any allegation admitted, but such allegation shall be taken as proven, and the point at issue between the parties, shall be the facts alleged and denied.

Sec. 150. Any defendant may admit the allegations of plaintiff, in whole or in part, and set up his defense by the affirmation of other facts upon which he may rely to defeat plaintiff's claim, or any part thereof, if plaintiff's allegations prove true. In which case the clerk shall record the facts admitted by defendant, and the plaintiff shall then be required to admit or deny the facts as alleged by defendant, and the clerk shall record his answer in the proceedings of the case, and those admitted shall be taken as proven, and testimony shall be introduced only as to those denied.

Sec. 151. Should the plaintiff not choose to deny the allegations of defendant, and should desire to answer and avoid the same by another statement of facts on his side, supposed by him to be sufficient in law to amend the defense set up, he may do so, and the defendant shall be required to admit or deny as before, and all matters denied shall be deemed and held as the issue between the parties, and those not denied, on one side or the other, shall be taken as proven, and testimony shall be introduced accordingly.

Sec. 152. Either party to a suit may, according to the principle involved in the three preceding rules, be permitted to admit the allegations of the other, in whole or in part, in the order in which the parties shall be required to admit or deny, and to allege new matter or facts in avoidance of the facts alleged by the opposite party, and in support of, or against, the original demand; and when new matter is alleged, the opposite party shall be required to

admit or deny as above; *provided*, that the facts so alleged by either party, shall constitute a good cause in law, of action or defense, as regards the original demand set forth in the summons. And if, upon demurrer by either party to the allegations of the other, it shall appear to the court that such allegations, if true, do not constitute good grounds in law for supporting or defending the claim demanded, no testimony shall be taken in the case, but the facts admitted by either or both sides, shall constitute the evidence in the case, and the court shall proceed to give judgment, as required in the second section of this act. If the allegations contained in the summons are demurred to as insufficient in law, and the court approve such demurrer, the case shall be dismissed at plaintiff's costs.

Sec. 153. It shall be the duty of each circuit judge, to impartially inform, instruct and assist the parties to a suit, in conforming to the rules above prescribed, when he shall deem it necessary for the due attainment of the object thereof, to-wit: the more speedy and certain discovery of the point of difference between the parties, the exclusion of irrelevant and immaterial testimony, and the more accurate and satisfactory dispensation of justice.

Sec. 154. When a cause is ready for hearing, and the issue defined as distinctly as practicable by the allegations and demands of the parties as provided, the party holding the affirmative, or upon whom the burden of proof shall rest, shall be allowed to introduce his testimony in support of his allegations; and no testimony shall be admitted from such party by the court, except such as may be admissible to prove such allegations, according to the rules governing the admission of evidence, that may be recognized by law, and by the courts. When the party first presenting testimony, shall have closed, the opposite party shall be allowed the same right, with the same restrictions, to introduce pertinent and competent evidence in justification of his denial; *provided*, that such opposite

party shall have the right to introduce evidence affecting the credibility of the witnesses and the testimony of the other side; which right shall be likewise allowed to the first party after the testimony in chief, on part of the negative or defense, shall have been closed.

Sec. 155. After the testimony in chief has been submitted by both parties, in affirmation or denial of the facts alleged respectively, the court may, upon motion, allow either party to introduce other testimony as to the credibility of the opposite witnesses or testimony, or in rebuttal of new matter material to the issue, lawfully brought to the consideration of the court in the course of such examination in chief.

Sec. 156. No suit shall be brought, nor any off-set to any suit be presented upon a sworn account, except the articles or work, matter of such account, is usually matter of credit, and record thereof has been kept, with the date of each transaction by the creditor, as a necessary way of doing business. And all sworn accounts or off-sets, submitted as evidence by the plaintiff or defendant, shall be copies from the original record or act, with the items and date of each item as charged, and the account book or record from which the sworn account purports to be a copy, shall be produced when called for by the opposite party, under the rule as provided in Section 154, or may be, if not demanded, voluntarily submitted as corroborative evidence of the sworn account. And the court shall give judgment in reference to any sworn account submitted by plaintiff or defendant, as the weight of evidence shall appear to authorize.

Sec. 157. In all suits upon sworn accounts, the original record of the account having been produced, the opposite party may introduce and examine, as a witness, the party submitting a sworn account, in reference thereto.

ARTICLE XVII.

PLACES OF HOLDING COURTS.

Sec. 158. The following places are designated and fixed upon, for holding courts, viz:

In Sequoyah District, at the present court house.
" Canadian " " " "
" Illinois " " " "
" Flint " " " "
" Going Snake " " " "
" Delaware " " " "
" Saline " " " "
" Coo-we-skoo-we " " "
" Tahlequah District, in the town of Tahlequah.

ARTICLE XVIII.

INTERPRETERS.

Sec. 159. In the trial of all causes, civil or criminal, by any of the courts of this Nation, when it may become necessary, for the proper understanding of the proceedings by the jury or the court, that an interpreter be appointed, the presiding judge may appoint a competent interpreter, who shall be sworn accurately to interpret, to the best of his ability, and who shall receive for such service, three dollars per day.

ARTICLE XIX.

BONDS.

Sec. 160. All officers of this Nation from whom bond is or may be required by law, and all other persons who may be required by law to give bond to secure the payment of any tax, or to ensure the fulfillment of any duty, or the discharge of any trust committed to them by the national authority, to do, or to preserve, on the general behalf or

interest of the people of this Nation, shall, except in cases expressly provided otherwise by law, file in the executive office the bond required, with sureties satisfactory to the Principal Chief. And upon failure of any officer, or such person, to comply with the conditions of any bond whatever, that may be given to secure or guard the general interests of the people of this Nation, or upon the report of such failure by the national treasurer to the national solicitor, the latter officer shall, in the name of the national treasurer, enter suit upon such bond, in the manner and form prescribed for other civil suits at law, and the national solicitor shall be entitled to and receive, as his fees for entering and prosecuting any such suit in behalf of the Nation, to final judgment, ten per cent. of all collections made upon executions obtained thereon.

Sec. 161. All sureties to bonds required to be given by law, shall be required by the officer to whose satisfaction they shall be given, to state, under oath, before their acceptance as bondsmen, the description and value of the property owned by them respectively, and subject to execution in case of forfeiture of bond; and no surety shall be accepted for an amount above that to which he shall be able to qualify, as herein provided.

CHAPTER IV.

AN ACT IN RELATION TO CRIMES AND MISDEMEANORS.

ART. I. Treason and Conspiracy.
II. Murder and Manslaughter.
III. Excusable and Justifiable Homicide.
IV. Assault, with Intent to Kill.
V. Burglary, Robbery and Larceny.
VI. Rape.
VII. Mayhem.
VIII. Arson.
IX. Perjury.
X. Abortion.
XI. Poisoning.
XII. Bribery.
XIII. Embezzlement.
XIV. Forgery and Counterfeiting.
XV. Escape of Prisoners.
XVI. Guards.
XVII. Introduction and Vending of Liquors.
ART. XVIII. Houses of Ill-fame.
XIX. Gambling.
XX. Marking and Branding Stock.
XXI. Offenses against Health.
XXII. Disturbing Public Assemblies.
XXIII. Malicious Trespassing.
XXIV. False Pretense.
XXV. Burning Prairie or Woods.
XXVI. Weights and Measures.
XXVII. Betting on Elections.
XXVIII. Obstructing Public Roads.
XXIX. Destroying Pecan and other Trees.
XXX. Principals and Accessories.
XXXI. Damages.
XXXII. Sundays, Violation of.
XXXIII. Slander or Libel.

ARTICLE I.

TREASON AND CONSPIRACY.

Sec. 1. Every person who shall, by force of arms, attempt to subvert the government of the Cherokee Nation, or who shall in like manner resist the enforcement of its laws; and every person who shall, contrary to the will and consent of the National Council, enter into a treaty with the government of the United States, or with any department or officer thereof, or with any State of the United States, or officer thereof, and agree to cede, sell, exchange, or dispose of, in any manner, the lands belonging to the Cherokees, or any part or portion thereof, shall be deemed guilty of *treason*, and, on conviction thereof, suffer death by hanging.

Sec. 2. Every person who shall, without the authority of the National Council, enter into and make a treaty with the government of the United States, or with any department or officer thereof, or with any State of the United States, or officer thereof, for any purpose, other than the cession of lands, shall be deemed guilty of *treason*, and, on conviction thereof, be punished by imprisonment for not less than ten years.

Sec. 3. Every person who shall conspire to subvert the government of this Nation, or shall combine to resist the enforcement of the laws thereof, shall be deemed guilty of a felony, and, upon conviction, suffer imprisonment not less than one year, nor exceeding ten years.

Sec. 4. No treaty shall be binding upon the Cherokee Nation, which shall not be ratified by the National Council, and approved by the Principal Chief.

ARTICLE II.

MURDER AND MANSLAUGHTER.

Sec. 5. Every killing of a human being, without the authority of law, by shooting, stabbing, poisoning, or by other means, or in any other manner, is either murder or manslaugther, in the first or second degree, or excusable or justifiable homicide, according to the intention of the person perpetrating the same, and the facts and circumstances connected with each case.

Sec. 6. Such killing, when done with malice aforethought, or from premeditated design, to effect the death of any person, though some other than the one intended should be killed; or where perpetrated by any act not in self-defense, imminently dangerous to others, and evincing a reckless or depraved mind, regardless of human life, although without any previous design to effect the death of any particular individual; or when done by any person

engaged in a duel, or when done in the perpetration of the crime of rape, arson, burglary or robbery, shall be murder, and every person convicted thereof shall suffer death by hanging.

Sec. 7. Every killing of a human being, when done without design to effect death, by the act, procurement or culpable negligence of any person, while such person is engaged in the perpetration of any crime, other than rape, arson, burglary or robbery, shall be manslaughter in the first degree, and every person convicted thereof, shall be imprisoned for a term of not less than five years, nor exceeding twenty years, at the discretion of the court.

Sec. 8. Every person, who shall deliberately assist another in the commission of self-murder; or who shall willfully kill any unborn child, by the infliction of an injury, by violence or otherwise, which would be murder, manslaughter or suicide, if it resulted in the death of the mother, shall be deemed guilty of manslaughter in the first degree, and, upon conviction thereof, be imprisoned, not less than five, nor exceeding twenty years.

Sec. 9. Every person who shall be present at, and act as second or medical adviser in any duel or prize fight, which shall result in the death of either principal, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned, not less than three years nor exceeding ten years.

Sec. 10. Every person who shall administer any drug, medicine, or other substance to, or shall use any instrument or other means, or perform any operation upon any pregnant women, for the purpose of destroying the child, unless advised by a physician or mid-wife, as necessary to save the life of the mother, whereby the life of the child or mother is destroyed, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned not less than three nor exceeding ten years.

Sec. 11. Any person who shall kill another without previous design to effect death, while in a heat of passion, and not in self-defense, but in a cruel and unusual manner; or any person who shall unnecessarily kill another, while such other is attempting to commit any unlawful act, or after such attempt shall have failed, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned not less than three years, nor exceeding ten years.

Sec. 12. Every person who shall kill another, in a heat of passion, or in any sudden affray, without design to effect death, but not in self defense, nor in a cruel and unusual manner, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, be imprisoned not more than three years, at the discretion of the court.

Sec. 13 Every person navigating any ferry or other boat, for gain, who shall willfully or negligently over-load said boat, whereby the boat shall sink or be upset, or any person be thrown or knocked overboard, and thereby any person shall be drowned or otherwise killed; or every captain, engineer or other person in charge of any steamboat, or other steam power, who shall willfully or by neglect, cause any explosion or breakage of boiler, or steam apparatus or fixture, whereby any person shall be killed, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned not exceeding five years, nor less than one year, at the discretion of the court.

Sec. 14. Every physician while in a state of intoxication, who shall, without design to effect death, administer any poison, drug or medicine, or perform any operation, whereby the death of another is effected, or every druggist or other person acting as such, who shall, by neglect or ignorance, administer any poison, medicine or drug, which shall cause the death of any person; or every owner of any mischevious animal, knowing its propensities, who shall

not use due care in keeping it, and such animal kill any person outside the inclosure of such owner; or every person who shall in any manner, otherwise than herein before specified, and not in self-defense, and such killing not being excusable or justifiable, shall be deemed guilty of manslaughter in the second degree, and, upon conviction, shall be imprisoned, not exceeding five years, nor less than one year, at the discretion of the court.

ARTICLE III.

EXCUSABLE AND JUSTIFIABLE HOMICIDE.

Sec. 15. Every killing of a human being is hereby declared to be excusable or justifiable in the following cases, to-wit: Such killing is exusable when done by accident or misfortune, in lawfully correcting a child or ward, or in doing any other lawful act, by lawful means, with usual and ordinary caution and without any unlawful intent, or purpose to effect death, or by accident or misfortune, in the heat of passion, upon any sudden and sufficient provocation, or upon a sudden affray, without undue advantage being taken, and without the use of any dangerous weapon, and not done in a cruel and unusual manner.

Sec. 16. Every killing of a human being is justifiable when necessarily done by any public officer, or those acting under his authority, in enforcing obedience to a process from any legal tribunal, or when done in overcoming actual resistance to the execution of such process, or when necessarily done in the discharge of any duty required by law, or when done by any person in resisting the attempt of another to kill such person, or to commit any felony upon such person, or upon, or in any dwelling house, in which such person may be; or when committed in the lawful defense of such person, or in the defense of his or her husband, wife, child, parent, ward, guardian, relative or friend, when there shall be a reasonable ground

to apprehend a design to commit some felony, or do some serious bodily injury, and there shall be reasonable cause for believing that there is imminent danger of such design being accomplished, or when necessarily done in attempting, by lawful ways and means, to quell any tumult, or riotous conduct, or in lawfully keeping and preserving the peace.

ARTICLE IV.

ASSAULT WITH INTENT TO KILL.

Sec. 17. Every person, who shall be convicted of shooting at another, or of attempting to discharge any fire-arms at another; or of any assault, or assault and battery, upon another, with any deadly weapon, or other means likely to produce death, with intent to kill and murder, or to maim, disfigure, or rob another; or in the attempt to commit murder, manslaughter, burglary, or other felony; or in resisting the execution of any legal process, or any officer, or private person, lawfully attempting to arrest him, her, or any other person, shall be deemed guilty of felony, and shall be imprisoned not less than three years, nor exceeding ten years.

Sec. 18. Every person, who shall assault and rob, or take away, by force or intimidation, from the person of another, any money, or other property, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than three years, nor exceeding ten years, and be fined in double the amount of damage sustained by the injured party.

ARTICLE V.

BURGLARY, ROBBERY AND LARCENY.

Sec. 19. Every person, being armed with a dangerous weapon, or so arming himself after entering, who shall, with intent to commit the crime of murder, rape, robbery,

or other felony, break into or unlawfully enter, in the night time, any dwelling, store, or other house, then being lawfully occupied by any person, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than five years, nor more than fifteen years.

Sec. 20. Every person, being not armed, nor arming himself after entering, who shall, with intent to commit the crime of murder, rape, robbery, or other felony, break into, or unlawfully enter, in the night time, any dwelling, store, or other house, then being lawfully occupied by any person, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than one, nor exceeding ten years.

Sec. 21. Every person who shall, in the day time, break into, or unlawfully enter any dwelling, store, or other house, or who shall in the night time, break into, or unlawfully enter any dwelling, store, or other house, at the time being occupied, with intent to commit the crime of murder, rape, robbery, or other felony, shall be deemed guilty of a felony, and, upon conviction, shall be imprisoned, not less than one year, nor exceeding five years.

Sec. 22. Every person who shall willfully take, steal, or maliciously destroy, any goods, wares, merchandise, promissory note, national warrant, certificate, money, or other property, one hundred dollars or more in value, shall be deemed guilty of felony, and, upon conviction, be imprisoned for any term, not less than one year, nor exceeding ten years, and be fined in a sum double the amount of damage sustained by the injured party, for his benefit.

Sec. 23. Every person who shall willfully take or steal, or maliciously destroy, any goods, wares, merchandise, promissory note, money, national warrant, certificate, or other property, less than one hundred dollars in value, shall, upon conviction, be imprisoned for any term, less

than one year, at the discretion of the court, and be fined in double the amount of damage sustained by the injured party, for his benefit.

Sec. 24. Every person who shall steal and carry away, or fraudulently withdraw, conceal, or destroy, or take away any record, paper, or proceeding of a court, or of the executive or legislative department of this Nation, or any paper or proceeding, filed with any officer, or in any public office, without reference to the value of the paper, record, or proceeding, so taken, stolen, destroyed, withdrawn, or concealed, shall be deemed guilty of felony, and, upon conviction thereof, shall be fined in a sum double the amount of the injury sustained by the party injured, and be imprisoned not less than one year, nor more than five years, at the discretion of the court.

Sec. 25. Every person who shall willfully take or steal, a horse, mule, ass, or cow, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than three years, nor more than seven years, and be fined for the benefit of the injured party, in a sum double the amount of loss or damage sustained. And every person found a second time guilty of a violation of this section, shall be imprisoned not less than seven years, nor exceeding ten years, and be fined as above.

Sec. 26. Every person who shall willfully take or steal, any hog, sheep, goat, or other domestic animal, or wild animal, kept in an enclosure, shall be deemed guilty of felony, and, upon conviction, be imprisoned not less than one year, nor more than three years. And every person, found a second time guilty of a violation of the provisions of this section, shall be imprisoned not less than three years, nor exceeding seven years, and be compelled, in every instance, to make restitution to the injured party, in a sum double the amount of injury sustained.

Sec. 27. Every person who shall willfully kill, maim, or disfigure, any horse, cow, hog, or other beast of another,

or shall willfully administer any poison to such beast, or shall willfully or maliciously destroy the personal property of another, in any manner, or by any means, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be imprisoned for any period less than one year, at the discretion of the court, and be fined in a sum double the amount of the damage sustained, for the benefit of the injured party. And every person found a second time guilty of a violation of the provisions of this section, shall be deemed a felon, and shall be imprisoned not less than three years, nor more than seven years, and be fined in a sum double the amount of the injury sustained, for the benefit of the injured party.

ARTICLE VI.

RAPE.

Sec. 28. Every person who shall ravish and carnally know any female not under twelve years of age, by force and against her will, or by administering to her any substance, or liquor, which shall produce such stupor or imbecility of mind, or weakness of body, as will prevent effectual resistance; or shall attempt to ravish, or carnally know, any female child, less than twelve years of age, either with or without her consent, shall be deemed guilty of a felony, and, upon conviction, shall suffer imprisonment, for a term not exceeding twenty-five years, nor less than ten years; *provided, however*, if the female be, at the time of the commission of the offense, a common prostitute, she shall be required to make immediate complaint to some public officer, or other respectable person; and if, on the trial of such offense, she is proven to be a common prostitute, then the court may imprison the offender, upon conviction, for any term not less than one year, nor exceeding ten years.

Sec. 29. Every person who shall ravish and carnally know any female child, under the age of twelve years,

either with or without her consent, shall, upon conviction, suffer death by hanging; *provided*, that the Principal Chief, by and with the advice and consent of the executive council, may, if the circumstances of the case seem to warrant, commute the sentence to imprisonment for life.

ARTICLE VII.

MAYHEM.

Sec. 30. Every person, who shall, with malicious intent to maim or disfigure, cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, slit or mutilate the nose or lip, or cut off or disable any member of any person, and every person privy to such intent, who shall aid in the commission of such offense, shall be deemed guilty of a felony, and, upon conviction, shall be imprisoned not exceeding ten years, nor less than one year, and be fined, for the benefit of the injured party, in any sum not less than one hundred dollars, at the discretion of the court.

ARTICLE VIII.

ARSON.

Sec. 31. Every person, who shall willfully set fire to, and burn, any dwelling, or other house, occupied by any person, whereby the life of such person shall be destroyed, shall, on conviction, be deemed guilty of manslaughter in the first degree, and suffer death by hanging; *provided, however*, the Principal Chief, by and with the advice and consent of the executive council, may, if the facts and circumstances of the case seem to warrant, commute the punishment to imprisonment for life.

Sec. 32. Every person, who shall willfully set fire to, and burn, any dwelling house, mill, school-house, church, barn, or other building, whether such person be the owner or not, shall be deemed guilty of a felony, and, upon

conviction, be imprisoned for a term not less than five years, nor exceeding fifteen years, and fined in a sum double the amount of damage sustained, for the benefit of any other person injured.

Sec. 33. Every person, who shall willfully set fire to and burn, any bridge, or any goods, wares or merchandise, or any chattels of any kind, or any stack, bale, or heap of hay, or field of grain, cotton, or other produce, standing or growing in any field, or any orchard, or nursery, or grove of trees, not his own, or any fence around any farm, field, or inclosure, not his own, or any cord wood, not his own, or any parcel of boards, or lumber, or shall willfully set fire to, and burn, any property not herein specially named, shall be deemed guilty of a felony, and, upon conviction, shall be imprisoned not less than one year, nor exceeding five years; and be fined for the benefit of the injured party, in a sum double the amount of damage sustained by the injured party.

ARTICLE IX.

PERJURY.

Sec. 34. Every person, of whom an oath or affirmation may be required by law, who shall, before any court, or officer, authorized by law to administer oaths, willfully swear, or affirm falsely in regard to any material matter or thing, respecting which, such oath or affirmation is required, shall be deemed guilty of a felony, and, upon conviction, suffer imprisonment for not less than one year, nor more than five years; *provided, however*, if the offense be committed in the trial of an indictment, for a crime punishable with death, or imprisonment for life, the offender shall be imprisoned for not less than five years, nor exceeding fifteen years. And every person who shall procure another to commit the crime of perjury, shall be deemed guilty of a felony, and be imprisoned as herein above provided.

Sec. 35. No person convicted of perjury, or subornation of perjury, shall ever afterwards be allowed to give evidence before the courts of this Nation.

ARTICLE X.

ABORTION.

Sec. 36. Every pregnant woman who shall willfully take any medicine, drug, or other thing, or who shall use or employ any instrument, or other means, with intent to produce abortion, or miscarriage,—whether abortion or miscarriage be produced or not,—and every other person who shall, with such intent, administer to, prescribe for, advise, or procure any such woman to take any thing, or employ any thing, for such purpose, shall, upon conviction, be deemed guilty of a felony, and be imprisoned not less than one year, nor exceeding five years.

Sec. 37. Every woman, who shall conceal the death of any issue of her body, which, if born alive, would be a bastard, so that it may not be known, whether such issue was born alive or not, or whether it was not murdered, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than one year, nor exceeding five years.

ARTICLE XI.

POISONING.

Sec. 38. Every person who shall attempt to commit the crime of mnrder, or attempt to injure another by using any poison commingled with any food, drink, or medicine, or in any clandestine manner, shall be deemed guilty of a felony, and, upon conviction, suffer imprisonment for a term not less than one year, and not exceeding ten years, and be fined to the amount of damages sustained by the party injured, for the benefit of such party.

ARTICLE XII.

BRIBERY.

Sec. 39. Every person, who shall corrupt any witness, guard, or juror, or any executive, legislative or judicial officer, or other person holding any office, or appointment of honor, profit or trust, under the government of this Nation, by giving, offering, or promising any gift, gratuity, or consideration whatever, present or prospective, either before or after such person may qualify, with intent to influence his act, vote, opinion, decision, or judgment, in any matter, cause, question, or proceeding, which may then be pending, or may, by law, come or be brought before him for his official action, shall be deemed guilty of felony, and, upon conviction, be imprisoned not less than one year, nor more than five years. And every witness, juror, or guard, or executive, legislative, or judicial officer, or person holding any office, or appointment of honor, profit or trust, under the government of this Nation, who shall corruptly accept any gift, reward or gratuity, touching any question, cause, proceeding or appointment, which may come before him for his official action, shall be deemed guilty of felony, and, upon conviction, be imprisoned not less than five years, nor exceeding ten years.

ARTICLE XIII.

EMBEZZLEMENT.

Sec. 40. Every attorney, officer, agent, clerk or employee of any company or person, or every receiving, forwarding and commission merchant, or every miller, having in charge any moneys, goods, wares, grain, or other produce, or property of another, who shall fraudulently embezzle, make way with, or appropriate to his or her own use, without the consent of the owner, the whole or any part thereof, and shall fail or refuse, on demand, to make full restitution in kind, or in accordance with the

terms of agreement, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, and be fined in a sum double the amount of damages, for the benefit of the party injured.

Sec. 41. Every person holding an office, or appointment of honor, profit or trust, who is or may be interested with, or who is or may be required to receive, and pay over, any moneys, or other dues, received in the discharge of his official duties, and belonging to the Nation, shall be required to pay over, in kind, whether it be gold, silver United States paper currency, national warrants, or certificates, or other consideration, and shall not set up any claim as an off-set. And every person who holds any office, or appointment of honor, profit or trust, under the government of this Nation, and who shall violate the provisions of this section, shall be deemed guilty of a misdemeanor, and be subject to suspension from office, and impeachment, and removal and disqualification; and, upon conviction, either before or after impeachment before the courts of this Nation, shall be fined in a sum not less than five hundred dollars, nor more than one thousand dollars; and, in default of payment, be imprisoned for any term less than one year, and exceeding six months, at the discretion of the court; *provided*, every receiving officer, who shall not within thirty days, after notification of such delinquency, or within thirty days after the time required by law, report such offender to the Principal Chief, for suspension from office, shall be deemed "*particeps criminis*," and, upon conviction, be subject to like punishment as the principal.

Sec. 42. Every person holding an office, or appointment of honor, trust or profit, who is or may be interested with the collection, safe-keeping, receipt, transfer or disbursement, of any tax, rents, revenue, moneys, fines, incomes, or securities, and shall convert the whole, or any part thereof, to his own use, or shall, without authority of law, loan, either with or without interest, any part thereof, shall be

deemed guilty of a felony, and, upon conviction, be imprisoned not less than five years, nor exceeding fifteen years.

ARTICLE XIV.

FORGERY AND COUNTERFEITING.

Sec. 43. Every person who shall falsely make, alter, forge, or counterfeit any national warrant, due bill, or certificate, or any order, note of hand, draft, power of attorney, will or deed, or any court or other public record, with intent to defraud, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than one year, nor exceeding three years; *provided*, if the person so convicted, shall have been, at the time the offense was committed, an officer of the Nation, or of any corporation created by law, he shall be imprisoned not less than three years, nor exceeding seven years. And in every case, the offender, upon conviction, shall be fined for the benefit of the party injured, in double the amount of damage sustained.

ARTICLE XV.

ESCAPE OF PRISONERS.

Sec. 44. Every person, being unarmed, who shall aid or assist any prisoner in escaping from any jail or prison, or from the custody of any sheriff or guard, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned, for any term less than one year, and exceeding six months.

Sec. 45. Every person, being armed with a dangerous weapon, who shall forcibly aid in the escape, or rescue of any prisoner from any jail or prison, or from the custody of any sheriff or guard, or shall attempt to so aid the escape or rescue of such prisoner, shall be deemed guilty of a felony, and, upon conviction, be imprisoned, not less than one year, nor more than five years.

Sec. 46. Every prison keeper, jailor, sheriff or guard, who shall voluntarily permit the escape of any prisoner, who has been placed in his safe keeping, shall, upon conviction, be deemed guilty of a felony, and be imprisoned not less than one year, nor more than five years; and if such prisoner be convicted of, or charged with, any offense punishable with death, or imprisonment for life, the prison keeper, jailor, sheriff, or guard, shall be imprisoned, not less than five years, nor more than fifteen years.

Sec. 47. Every officer, authorized to serve processes, who shall willfully and corruptly refuse to execute any lawful process to him directed, and requiring him to arrest and confine any person convicted of, or charged with any criminal offense, or shall willfully and corruptly omit, or neglect to execute such process, whereby such person shall escape and go at large, or shall willfully and corruptly refuse to receive into his custody any person committed thereto, on lawful process, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, and not less than six months, or by fine not less than two hundred dollars, nor more than one thousand dollars, or both, at the discretion of the court.

ARTICLE XVI.

GUARDS.

Sec. 48. Every person, being summoned in the name of the Cherokee Nation, by any sheriff or other lawful officer, who shall refuse or neglect to aid and assist such officer, in the execution of the duties of his office, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty dollars, and not exceeding two hundred and fifty dollars. And no property shall be exempt from the payment of such fine, improvements excepted: *provided*, every person holding an office, or appointment of honor, profit or trust, under the government of this Nation; every officiating minister of the gospel,

practicing physician, lawyer, public ferry man, carrier, school teacher, (during term time), and every person sixty-five years of age, and every minor, shall be exempt from service as guard, excepting when called upon to make immediate arrests, or to prevent the rescue of prisoners, or to quell any riot or tumult, or in the preservation of peace.

ARTICLE XVII.

INTRODUCTION AND VENDING OF LIQUORS.

Sec. 49. Every person, who shall set up and keep a house, room or place, for the purpose of vending intoxicating drinks, or who shall introduce, vend, or in any other manner dispose of for gain, any intoxicating liquors, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be imprisoned, for any term less than one year, and not less than one month, or by fine, not less than one hundred dollars, or by both fine and imprisonment, at the discretion of the court; *provided, however*, that this section shall not be so construed, as to prohibit the introduction and use by licensed physicians, for medicinal purposes, of alcohol or other spirits.

ARTICLE XVIII.

HOUSES OF ILL FAME.

Sec. 50. Every person, who shall set up and keep any house, room or place, resorted to for the purpose of prostitution of the sexes, or every person, who shall knowingly rent, lease, or in any other manner, permit the use of his house for such purpose, or every woman who shall be found therein as a prostitute, or every person who superintends such house, or may be therein employed, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, or be fined in any sum of not less than ten dollars, nor more than two hundred and fifty dollars, or be both fined and imprisoned, at the discretion of the court.

Sec. 51. Every person, after having been once convicted, who shall persist in keeping a disorderly house, for the purpose of gambling, vending of ardent spirits, debauchery, assignation, or the prostitution of the sexes, to the annoyance of society, shall be deemed incorrigible, and, besides the penalties, shall be deemed a common nuisance, and to have forfeited the right of residence in such place; and the citizens of such place, or vicinage, may, at their option, eject such person, and, if necessary, thoroughly destroy such place of vice, in such manner as they may choose, without endangering the property of others, or the lives of the inmates.

ARTICLE XIX.

GAMBLING.

Sec. 52. Every person who shall at any time, or in any place, play at any game, for gain, with cards, dice, or any device, which may be used or adapted to playing any game of chance or hazard, or shall bet on the hands or sides of those who do play, shall be deemed guilty of a misdemeanor, and shall be fined, in a sum not less than ten dollars, nor exceeding one hundred dollars.

Sec. 53. Every person who shall set up, or keep any house or room, or place, either private or public, for the purpose of gambling, and shall induce, entice or permit, any person therein, to bet at any game of faro, roulette, or other game whatever, or to play at any game of cards, dice, or other device, for gain, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined in any sum, not less than fifty dollars, nor exceeding five hundred dollars. And no property, improvements excepted, shall be exempted from the payment of fines imposed under this section.

Sec. 54. All debts incurred at any game of chance, of whatsoever name, or upon any horse race, election, or cock fight, or other sport, or wager, or for the repayment of

money, or other thing of value, lent or advanced at the time of any game, play, election bet, or wager, for the purpose of being laid, betted, staked or wagered, shall be void, and of no effect. And every person who may have lost at any game of chance, or otherwise, as herein set forth, and paid over to another any money, or other valuable thing, may at any time within six months after such loss or payment, sue for and recover the same. Suits for the recovery of money or other valuable things, so lost and paid over, may, within one year be brought by the husband, wife, or legal representative of the loser, for the benefit of his or her family or heirs. And the defendants in such suits, may be required to answer, on oath, all questions in relation to the recovery of the money, or other valuable thing specified in the complaint, and thereafter be exempted from all further prosecution of the case.

ARTICLE XX.

MARKING AND BRANDING STOCK.

Sec. 55. Every person who shall, willfully and knowingly, mark or brand any animal, the property of another, with a mark or brand not that of the owner, without the consent of the owner, or authority of law; or shall knowingly alter or deface the mark or brand of any animal, the property of another, without his consent, shall be deemed guilty of a felony, and, upon conviction, be imprisoned not less than one year, nor exceeding three years; *provided*, any person, found a second time guilty of a violation of the provisions of this section, shall be imprisoned not less than three years, nor more than seven years.

ARTICLE XXI.

OFFENSES AGAINST HEALTH.

Sec. 56. Every person who shall fraudulently adulterate any substance intended for food, or any fluid

intended for drink, or any drug or medicine, in such manner as to render it injurious to health, or who shall knowingly sell any diseased, corrupted, or unwholesome provisions, whether for food or drink, or such adulterated drugs or medicines, without making the same fully known to the buyer; or every druggist, or other person, who shall sell and deliver any arsenic, strychnine, or other active poison, without having the word "*poison*," and the true name thereof in English written or printed thereon, in plain letters, upon a label attached to the vial, box, or parcel containing the same, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined in a sum not less than one hundred dollars, nor exceeding five hundred dollars, or be imprisoned for any term less than one year, and not less than six months, or by both, in the discretion of the court.

Sec. 57. Every physician, apothecary, druggist, or other person, who shall, in a state of intoxication, or by neglect or carelessness, prescribe or administer any active poison, as a medicine, to another, thereby endangering the life of such person, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, or be fined in any sum not less than one hundred dollars, and not exceeding one thousand dollars, or be both fined and imprisoned, at the discretion of the court.

ARTICLE XXII.

DISTURBING PUBLIC ASSEMBLIES.

Sec. 58. Every person who shall willfully annoy, by word or deed, or in any manner disturb any school, religious, political or social public meeting, lawfully assembled, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty-five dollars, nor exceeding one hundred dollars, and in default of payment

of such fine, be imprisoned not less than thirty days, nor more than ninety days; *provided*, if the offender be at the time, in a state of intoxication, or be armed with a dangerous weapon, he shall be imprisoned not less than six months, and less than one year, at the discretion of the court; *provided, further*, that the members of every religious, political and social public meeting, when lawfully assembled, be authorized to adopt such measures for the peace and harmony of their meeting, by the suppression of the sale, and indulgence in the use of intoxicating drinks, and for the preservation of the peace, as may seem to them most proper and best suited to that purpose, and said assembly, or the individual members thereof, shall not be responsible for any damages suffered by persons, in the exercise of the right herein granted.

Sec. 59. Every person who shall, during the holding of any camp or field meeting, for religious purposes, and within one mile of the place of holding such meeting, peddle or sell any goods, wares or merchandise, provisions or refreshments, without permission from the persons having charge of such meeting, or shall practice or engage in any kind of gambling, or horse racing, or exhibit any show or play, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty-five dollars, nor exceeding one hundred dollars, and in default of payment, be imprisoned, not less than ten, nor exceeding thirty days; *provided*, that any person having his regular and usual place of business within such limits, shall not be required to suspend his business.

ARTICLE XXIII.

MALICIOUS TRESPASSING.

Sec. 60. Every person who shall willfully and maliciously enter upon any field, garden, orchard, or other lands of another, and commit any trespass therein, by stealing,

willfully taking, or destroying any grain, fruits, vegetables or other product of the soil, or by destroying, or injuring any vine, plant, shrub, fruit or other tree, not his own, standing, or growing for shade, ornament or other useful purpose, upon the premises of another, or upon any public grounds or park, or by breaking, or throwing down or opening any gate, bars, or fence enclosing lands not his own, or by marring, defacing, or otherwise injuring any building not his own, or by burning, breaking, or otherwise destroying any railing, enclosure, or monument erected in memory of the dead, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, at the discretion of the court, and be fined in double the amount of damage done, for the benefit of the injured party.

ARTICLE XXIV.

FALSE PRETENSE.

Sec. 61. Every person who shall designedly, and by false pretense, and with intent to defraud, or obtain from another, any money, horse, mule, goods, wares, or merchandise, or other property whatsoever, or shall obtain with such intent, the signature of another, to any instrument of writing,—the false making whereof would be forgery,—shall be deemed guilty of a felony, and, upon conviction, shall be imprisoned, not less than one year, nor more than five years, and be fined for the benefit of the injured party, in a sum double the amount of damage sustained.

ARTICLE XXV.

BURNING PRAIRIE OR WOODS.

Sec. 62. Every person who shall, between the first day of July, and the first day of April, willfully set fire to, and burn any prairie or woodland, not within his own enclosure,

shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than twenty-five, nor exceeding one hundred dollars, or, in default of payment, be imprisoned not exceeding thirty days; *provided*, however, if the house, fencing, hay, grain, or other property of another be thereby injured or destroyed, the offender shall be liable to the owner of such property, in a sum double the value of the property injured or destroyed; and if payment of such damage is not made before the conviction of such person, he shall be punished for any term less than one year, and exceeding three months, at the discretion of the court.

ARTICLE XXVI.

WEIGHTS AND MEASURES.

Sec. 63. Every person who shall, with intent to defraud, use, or induce others to use, any false weight or measure, or shall give or receive any false weight or measure in buying, selling, exchanging, or disposing of any commodity, sold by weight or measure, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than one year, and not less than thirty days, and be fined in double the amount of damage sustained by the injured party, for his benefit; *provided*, whenever any commodity shall be sold by the hundred pounds, it shall be construed to mean the net weight of one hundred pounds avoirdupois, and all contracts concerning goods or commodities sold by weight, shall be construed accordingly, unless such construction would be manifestly inconsistent with the special agreement of the parties contracting.

Sec. 64. A bushel shall contain twenty-one hundred and fifty and forty-two one hundredths (2150.42) cubic inches. The Fairbanks' warehouse or platform scales, are hereby adopted as the legal standard of weights in the

Cherokee Nation, and the weight of the following commodities, by the bushel, shall be as follows, to wit:

Wheat	60 lbs.	Top or Button Onions	28 lbs.
Shelled Corn	56 "	Peas	60 "
Corn in ear	70 "	Corn Meal	48 "
Oats	32 "	Osage Orange Seed	33 "
Barley	48 "	Plastering Hair	8 "
Rye	56 "	Clover Seed	60 "
Broom Corn Seed	44 "	Timothy Seed	60 "
White Beans	60 "	Red Top Seed	14 "
Irish Potatoes	60 "	Hungarian Grass Seed	50 "
Sweet Potatoes	55 "	Blue Grass Seed	14 "
Turnips	55 "	Dried Apples	24 "
Onions	56 "	Dried Peaches	28 "

Provided, further, that nothing in this section shall be so construed, as changing the standard of weights and measures used by apothecaries and others in the sale of drugs and medicines.

ARTICLE XXVII.

BETTING ON ELECTIONS.

Sec. 65. Every person who shall bet, stake, or wager, any money, or other thing of value, upon the result of any election held in this Nation, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than one hundred dollars, nor exceeding five hundred dollars, and, in default of payment of such fine, shall be imprisoned not less than three, nor exceeding six months.

ARTICLE XXVIII.

OBSTRUCTING PUBLIC ROADS.

Sec. 66. Every person, who shall willfully and unnecessarily obstruct, wholly or in part, any public road within the Nation, by felling trees in or across the same, or by filling any cuts, or in any manner rendering the crossings of any stream impracticable, on such road, or by enclosing within his improvements, by fencing or otherwise, any part of such road, without first having opened a practicable

way around such improvement or fencing, to be made, or in any other manner preventing a free passage along such road; and every person who shall alter, deface, remove or destroy, any sign board, erected for the guidance of travelers, upon such road, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty-five dollars, nor exceeding one hundred dollars. And no property shall be exempted from the payment of such fine, improvements excepted. *Provided*, that every road designed for the passage of wagons or other vehicles, opened or used by any citizen or neighborhood shall be construed to mean a public road, within the meaning of this section.

ARTICLE XXIX.

DESTROYING PECAN AND OTHER TREES.

Sec. 67. Every person who shall willfully cut down, kill or destroy any pecan, walnut, hickory or other fruit or nut bearing tree, standing and growing upon the public domain of the Cherokee Nation, or shall cut down for the nuts or fruit thereof, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than twenty dollars, nor more than fifty dollars, or, in default of payment of such fine, be imprisoned not less than ten, nor exceeding sixty days; *provided*, however, that nothing in this section shall be so construed, as to prohibit the felling or killing such trees, when necessary in the improvement or enlargement of farms, or when the timber thereof is designed for fuel, or other useful purposes.

ARTICLE XXX.

PRINCIPALS AND ACCESSORIES.

Sec. 68. Every person, being present, who shall aid, abet, assist, encourage or consent to the perpetration of any crime, shall be deemed a principal. And every person,

not being present, who shall advise, counsel, encourage or consent to the commission of any crime, shall be deemed an accessory.

Sec. 69. Every person who shall be indicted and convicted as an accessory, shall be punished in like manner as the principal, and may be proceeded against and tried either before or after the trial of the principal.

Sec. 70. Every person who shall be convicted of having concealed, received or released, any person charged with a criminal offense, or of having aided or assisted such person, knowing such person to be so charged, with intent to enable such person to escape, or to avoid arrest, trial, conviction or punishment, after the commission of such offense, on conviction thereof, shall be punished by imprisonment for any term not to exceed three years, at the discretion of the court; and in prosecutions for offenses specified in this section, it shall not be necessary to aver in the indictment, or to prove on the trial, that the principal has been convicted or tried.

Sec. 71. Every person who shall receive, conceal, buy, sell or dispose of any stolen goods, wares, or other valuable thing or property, knowing them to be such, shall be deemed an accessory, and, upon conviction, be punished in like manner as the principal, and such person may be proceeded against, and be tried either before or after the principal.

ARTICLE XXXI.

SLANDER OR LIBEL.

Sec. 72. Every person who shall falsely charge, or wantonly or maliciously speak, write, print, disseminate, or otherwise give publicity to any word, matter or thing, for the purpose of injuring another person in character, feeling or property, or for the purpose of so injuring the

family or friends of such person, shall, on conviction thereof before any court of competent jurisdiction, be deemed guilty of willful and malicious slander, and suffer punishment by fine, in any sum not exceeding two thousand dollars, for the benefit of the person injured, or by imprisonment for any term not exceeding two years, or by both fine and imprisonment, at the discretion of the court.

Sec. 73. The repetition or utterance of any charge or accusation, whereof the person accused has been tried and honorably acquitted by any legal tribunal of this Nation, may be deemed libelous, or not, according to the time and circumstances attending such utterance.

ARTICLE XXXII.

SUNDAYS.

Sec. 74. The seventh portion of time, beginning and ending with Sunday, the first day of the week, shall be a day of rest within the limits of the Cherokee Nation; and every merchant, mechanic, artist, or other person, who shall keep open his store, ware-house, shop, work-house, or other place of business, or shall engage on Sunday in any manner of work, labor or business, except only works of necessity and charity, shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any court of competent jurisdiction, be fined in any sum not exceeding fifty dollars, for each and every such offense, at the discretion of the court.

Sec. 75. One half of fines collected under this act, shall be paid into the general fund of the Nation, and the other half be paid to the solicitor and sheriff, prosecuting and collecting the same, equally; *provided*, that the keeping open of apothecary shops, and the preparation and sale of medicines on Sundays, for immediate use, shall not be deemed a violation of the provisions of this act.

ARTICLE XXXIII.

DAMAGES.

Sec. 76. Whenever any person is injured in property, by the unlawful act of another, he shall, within ten days after he is apprised of such injury, report the same to the judge of the district in which the act was done, who shall thereupon immediately appoint and qualify three suitable persons to assess the amount of damages sustained by the party injured; and the amount so assessed, certified to, and signed by the persons so appointed, shall be final as to the damage sustained, when judgment may be given thereupon according to law.

CHAPTER V.

AN ACT RELATING TO EXECUTIONS.

ARTICLE I.

EXECUTION IN CAPITAL CASES.

Sec. 1. The punishment of death shall in all cases be inflicted by hanging the convict by the neck until he be dead; and the sentence shall, at the time directed, be executed within the walls or enclosure of the national prison, at the town of Tahlequah, by the high sheriff, or some one deputized by him for that purpose.

Sec. 2. Whenever any person shall be convicted of any crime, for which sentence of death shall be awarded against him, the presiding judge in that case, shall, in open court, pass the sentence of death upon the person so convicted. He shall, at the same time, fix the time for the execution in his order to the high sheriff, signed by himself and the clerk of the court; which order, together with the convict, shall be committed to the custody of the sheriff of the district in which the case was tried, to be by him safely delivered to the high sheriff or his deputy, at or within the prison at Tahlequah, and such order of the judge shall be a sufficient authority for the high sheriff or his deputy, to execute such sentence; and he shall execute it accordingly.

Sec. 3. A respite of not less than thirty, nor exceeding ninety days, from the day of sentence, shall be given to every convict awaiting the execution of the death penalty.

Sec. 4. Ministers of the Gospel shall have, under the high sheriff, free access to all criminals awaiting the infliction of the death penalty; and whenever the death

penalty is to be inflicted, the high sheriff shall, if practicable, cause a physician or surgeon, the sheriff of Tahlequah district, or his deputy, and not less than six other reputable citizens of the Nation, to be present to witness the execution. He shall permit the counsel and immediate relations of the criminal, and the officers and assistants of the prison, and such others as he may see fit, to be present.

Sec. 5. Whenever the punishment of death shall have been inflicted, as herein provided, the high sheriff shall return the order for execution, with a statement thereto attached, of his doings therein, and as soon as may be after the execution, to the clerk of the court having jurisdiction, for record. He shall also make record of the same in the office of the prison.

Sec. 6. In every case in which the punishment of imprisonment in the national prison is awarded against any convict, the court (judge) shall transmit by the sheriff having custody of such convict, the sentence or decree of the court, to the high sheriff, and the term of punishment of such convict shall date from the day on which he is delivered for imprisonment to the high sheriff.

CHAPTER VI.

AN ACT RELATING TO THE NATIONAL PRISON.

ARTICLE I.

THE NATIONAL PRISON, DISCIPLINE AND MANAGEMENT.

Sec. 1. The National prison, at Tahlequah, shall be the general prison of the Cherokee Nation, for the reformation, as well as for the punishment of offenders, in which shall be confined, employed at hard labor, and governed, all offenders who have been committed and sentenced, according to law, to the punishment of solitary confinement, or imprisonment and confinement therein at hard labor. It may, also, be used, when deemed expedient, for the safe keeping of persons charged with murder, or other high crimes, and for the temporary confinement, or confinement and punishment of persons sentenced by the National Council, or who may be put under arrest for drunkenness, or other misdemeanor, at the seat of government.

Sec. 2. The organization of the National prison shall consist of one chief officer, to be known and designated "High Sheriff of the Cherokee Nation," one deputy, a board of supervisors, and such assistants as shall be authorized by law.

Sec. 3. The high sheriff shall be appointed by the Principal Chief, with the advice and consent of the senate, and his term of office shall be co-extensive with that of the Principal Chief appointing him. He shall be warden and treasurer of the National prison, and custodian of the capital building, and other public property at the seat of government, and shall perform such general and special duties as shall be imposed upon him by law. He shall

receive, out of the National treasury, a salary of eight hundred dollars per annum, and shall, before entering upon the discharge of his official duties, obligate to the Cherokee Nation, in such reasonable bond as shall be required by the board of supervisors, and take an oath to faithfully, and to the best of his ability, perform all of the duties devolving upon him by virtue of his office.

Sec. 4. The bond of the high sheriff shall be put on file, for safe keeping, in the office of the Principal Chief, and such high sheriff and his sureties, shall be jointly and severally responsible for every breach of its conditions.

Sec. 5. The board of prison supervisors shall be composed of the Principal and Assistant Principal Chiefs, and Executive Council. The Principal Chief shall be "*ex-officio*" president of said board, with authority to convene and adjourn the board, whenever he shall deem it expedient so to do. In his absence, or inability to act, the Assistant Principal Chief, or either of the other members of the board, may preside.

Sec. 6. The board of supervisors shall visit the prison, from time to time, examine into its condition, and into the condition of the prisoners, and render such advice and aid to the high sheriff as they may deem necessary. They shall prescribe rules and regulations for the guidance of the high sheriff, and for the government of the prison, and the employment of the prisoners. They shall carefully inspect the accounts of the high sheriff, and shall have the right to curtail or reject all contracts made on account of the prison, which are manifestly fraudulent, exorbitant, or unjust.

Sec. 7. The high sheriff may appoint his own deputy, with the concurrence of the board of supervisors. He may appoint, in like manner, such cooks, police force, and other assistants, as shall be required, from time to time, in the prison service.

Sec. 8. The high sheriff shall be responsible for the management of the prison, according to the rules and regulations prescribed by the board of supervisors, and the laws of the Nation thereto applying.

Sec. 9. The high sheriff, or his deputy, as warden of the prison, shall reside within the precincts of the prison. He shall have the letting and making, with the approval of the board of supervisors, of contracts for supplies and work in and for the prison; and, as treasurer, shall settle all bills in such manner as shall be prescribed by the board of supervisors.

Sec. 10. Neither he nor any person, holding a position in connection with the prison, shall, directly or indirectly, have any interest in any contract, either verbal or written, which may be entered into by him on the part of the Cherokee Nation, for any purpose whatever connected with the business or interests of the prison.

Sec. 11. As warden of the prison, the high sheriff shall furnish to the prisoners under his charge, such wholesome fare as shall be designated by the board of supervisors. He shall see to it, that the provisions intended for the use of the prisoners, are well and sufficiently cooked, and properly served. As far as may be, he shall, with the the consent of the board of supervisors, purchase all supplies of bedding, clothing, fuel and other necessary articles, by the quantity, and at the lowest market rates.

Sec. 12. The high sheriff shall have the charge and custody of the prison, with the lands, buildings, furniture, tools, implements, stock, and provisions, and every species of property thereto pertaining, or within the precincts thereof; and shall superintend the police of the prison, and discipline of convicts; and shall receive, and disburse, such sums of money as shall be granted by the National Council for the support of the prison, in conformity with the express provisions of law, and the instructions of the board of supervisors.

Sec. 13. He shall make an annual detailed report, closing on the thirtieth day of September of each year, to the Principal Chief, which shall contain a full and accurate statement of all the concerns of the prison for the fiscal year ending September thirtieth; also a list of the convicts received into, discharged, pardoned and died, during the year, with an estimate of expenses for the ensuing year; which report shall be made to the Principal Chief on or before the tenth day of October of each year, and shall be by him, with a report of the board of supervisors, laid before the National Council, at the ensuing annual session thereof.

Sec. 14. He shall, as frequently as may be, secure some minister of the Gospel to hold divine service in the prison, instruct the prisoners in their moral and religious duties, and visit the sick among them.

Sec. 15. Whenever any convict shall require medical aid, the high sheriff shall promptly call in some physician, who shall attend such sick convict until relieved, and the bill of such physician, for such service, shall be paid by the Cherokee Nation.

Sec. 16. The board of supervisors shall furnish the high sheriff with such medicines as shall be necessary for the prison.

Sec. 17. Should a controversy arise respecting any contract made on account of the prison, the same may be submitted to the final determination of three arbitrators or referees, to be appointed by the Principal Chief.

Sec. 18. All processes to be served within the precincts of the prison, either upon convicts, upon officers, or other persons employed within the precincts of the prison, shall be served by the high sheriff, or by his deputy, or other person next in rank; and all officers, and other persons in the prison service, shall be exempt from serving on juries and guard.

Sec. 19. It shall be the duty of the high sheriff, to see that all judgments passed upon persons sentenced to the National prison, are strictly, but not cruelly, enforced. He shall govern and employ them in the manner prescribed by law, the rules and regulations of the prison, and in conformity to the respective sentences under which they shall be committed.

Sec. 20. All officers, and other persons employed in and about the prison, shall perform such duties pertaining thereto, as shall be required of them by the high sheriff, in conformity to law and the rules and regulations of the prison.

Sec. 21. The clothing and bedding of the convicts shall be of such quality and quantity, as the judgment of the high sheriff and board of supervisors may approve, consulting the health and comfort of the convicts, and the interests of the Nation.

Sec. 22. The high sheriff, and those employed under him, shall use every necessary means to maintain order in the prison, enforce obedience, suppress insurrection, and effectually prevent escapes; for which purpose the high sheriff may at any time, if necessary, command the aid of any adequate number of citizens of the vicinity; and every person refusing to obey such command, shall be held liable to such fines, penalties or forfeitures, as apply to persons refusing to obey a sheriff or other officer calling for aid to assist in serving criminal process, or in quelling insurrection or riot.

Sec. 23. The high sheriff, as warden and treasurer of the prison, shall renew his bond whenever deemed necessary by the Principal Chief, and obligate for such sum as may be required by the Principal Chief. He shall require all of his subordinates, in the discharge of their respective duties, in all cases, to refrain from the use of boisterous, harsh and unbecoming language to the prisoners, and to each other, in or about the prison.

Sec. 24. The Principal Chief shall visit the prison as frequently as may be, confer with the high sheriff, and make such suggestions in regard to the management of the institution, as he may consider appropriate and for the interest of the same.

Sec. 25. Every convict, serving one year or more, when discharged or pardoned, shall be provided by the high sheriff with a decent suit of clothes, and not exceeding five dollars in money.

Sec. 26. All money, and other effects in the possession of convicts when committed to prison, shall be preserved by the high sheriff, and be restored to such convicts when discharged or pardoned, unless otherwise ordered by the courts having had jurisdiction of such cases.

Sec. 27. In case of the death of any convict, the high sheriff shall cause the body to be decently buried, unless claimed by some of the relations or friends of such convict, in which event the body and effects, if any, shall be delivered to them.

Sec. 28. Whenever any person committed to prison for any cause whatever, shall be unruly, or shall disobey any prison regulations, the high sheriff may order such prisoner to be kept in solitary confinement, and fed on bread and water only, for a period not exceeding thirty days for each offense.

Sec. 29. The high sheriff shall provide, at the expense of the Cherokee Nation, for each prisoner under his charge, a copy of the Holy Scriptures, to be used by such prisoner, at proper seasons, during his confinment; and any minister of the gospel, disposed to aid in reforming the prisoners, and instructing them in their moral and religious duties, shall have access to them at seasonable and proper times.

Sec. 30. All convicts sentenced to the punishment of hard labor in the prison, shall be employed as constantly as may be, for the benefit of the Cherokee Nation; no communication shall be allowed between them and any person without the prison; they shall be securely confined in the night time in different cells, or apartments, if practical, and in the day time all communication between them shall be restricted, or entirely prevented.

Sec. 31. Male and female convicts shall not be permitted to occupy the same apartments.

Sec. 32. If any convict sentenced to the national prison for a limited time, shall escape, or use, or attempt to use, any violent means to escape, he, or she, shall be punished by imprisonment in said prison, not more than ten years in addition to his or her former sentence, at the discretion of the court having jurisdiction.

Sec. 33. If any convict in the national prison under sentence of imprisonment for life, shall escape therefrom, or shall commit assault upon any one for the purpose of escaping, he or she shall be punished by solitary imprisonment, not more than one year, to be executed at such time as the court having jurisdiction shall direct.

Sec. 34. The high sheriff shall annually make an inventory of all property belonging to the prison, closing with the fiscal year, and report the same to the Principal Chief within ten days after the close of such fiscal year. He shall at the same time, and accompanying such schedule or inventory, render the annual report hereinbefore provided for, and such inventory and report shall be submitted by the Principal Chief for the information of the National Council at the next annual session of the same.

Sec. 35. The high sheriff shall keep, or cause to be kept, in suitable books, regular and complete accounts of all expenses, income, business, and concern of the prison;

also a register of all prisoners received, discharged, pardoned, or died, and such other matters as may be necessary in statistics of the kind; he shall, at all suitable hours, permit all authorized persons to examine the books of his office; and shall admit visitors at such times and in such manner, as shall be designated by the board of supervisors.

Sec. 36. The high sheriff shall enter upon his register a minute and correct description of every convict received into the prison; and may adopt such means as he may deem best, to recapture escaped prisoners.

Sec. 37. The deputy of the high sheriff shall have the same authority as the high sheriff; and, in the absence of the high sheriff, or his ability to act, shall assume all of the duties, and be subject to all the liabilities of that officer.

Sec. 38. The high sheriff shall pay his own deputy, until otherwise provided for by law.

Sec. 39. No tea, sugar, coffee, tobacco, or other article of luxury or indulgence, shall be allowed any convict, except by order of a physician, and for a definite period; *provided*, *however*, that the board of supervisors may suspend the enforcement of this provision, so far as regards the use of sugar and coffee by convicts actively employed at productive labor.

Sec. 40. The high sheriff, his deputy, and all other officers employed in the prison service, may be suspended from office, by the Principal Chief, for malfeasance, misconduct, or incompetency in office, and the vacancy, thus created, filled in the usual manner.

Sec. 41. Convicts awaiting in the national prison the execution of the death penalty, and sentenced to be executed at or within the precincts of the prison, shall be executed in accordance with the mandate of the lawful

authority, by the high sheriff, or his deputy, or by such other person as the high sheriff shall deputize for that special purpose.

Sec. 42. The high sheriff, as custodian of the public property, at the seat of government shall have charge of the capitol, and the public grounds inclosing the same, and the commons thereto adjoinging, and of all movable property belonging to the Nation, at or in the capitol, not by law in the charge of other officers; *provided*, that nothing herein contained shall authorize the said high sheriff to interfere with any rooms in the capitol, that may be appropriated by law for the use of the senate and council, or for other national officers, during the time the same may be used and occupied.

Sec. 43. The high sheriff shall keep the capitol, the furniture and other property therein and thereto belonging, and the public grounds and commons contiguous thereto, in a proper state of cleanliness and repair, and shall be responsible for the safe keeping and preservation of the same. He shall make such improvements and repairs as may be from time to time authorized by law. He shall have charge of the keys and fastenings of the exterior doors of the capitol, and of all rooms not occupied for public purposes. He shall unlock and open the exterior doors of the capitol during the sessions of the National Council, or the sitting of the supreme court, at the hour of seven in the morning, and keep the same open until the hour of ten at night; *provided*, he shall not interfere with the sessions of the courts or of the National Council.

Sec. 44. The high sheriff shall at all times keep the rooms of the capitol clean and properly ventilated, and during the sessions of the National Council and supreme court, well warmed and supplied with pure water. It shall be his especial duty to cause to be prosecuted, every person who shall be guilty or accused of stealing,

taking, willfully destroying or defacing, or in any manner trespassing upon any public property lawfully in his custody.

Sec. 45. The high sheriff shall be a conservator of the peace, with such general powers as are exercised by sheriffs, besides such special or extraordinary powers as may be conferred upon him by law. He shall wait upon, open and adjourn the sessions of the supreme court, and execute its mandates. He shall also wait upon and execute all orders of the National Council, and of the committees thereof. He shall have full authority during the sessions of the National Council, and at all other times, to suppress within the vicinity of the capital, all riotous brawls, obscene or other improper conduct, and to enforce obedience to the laws, and may, whenever necessary, summon any extra adequate force to his assistance. He may summarily arrest, imprison and hold, until duly sober, any person acting improperly while under the influence of intoxicating drinks, and arrest, imprison, and deliver to the proper authority, all other persons who may be guilty of a breach of the peace, at or about the seat of government.

Sec. 46. All fuel, water and fires, for and in the supreme court room, the offices of the executive, treasurer and auditor of accounts, and for the senate, council and committee rooms, shall be provided by the high sheriff out of his salary, until otherwise provided for by law. And said high sheriff shall require one or more of his employees to be constantly in attendance during the sessions of the senate and council, for the purpose of keeping the rooms in proper condition, and for the purpose of discharging any other duties of said high sheriff, as custodian of the public property; *provided*, however, that the assistant clerks of the senate, the council, and the Principal Chief, shall act as messengers in transmitting bills and other official papers, from one house to the other, and to and from the Principal Chief; and such clerks shall be responsible for

all papers coming to their hands, for that purpose; and such duty shall no longer be required of the fire-makers, nor of the high sheriff as custodian of the public property.

Sec. 47. Immediately after the adjournment of each annual or special session of the National Council or supreme court, and as soon as the several clerks shall have filed and secured the public books and papers, as required by law, the high sheriff shall cause the several rooms (of the capitol?) to be put in good condition, and all the shutters, within and without, closed and securely fastened. He shall also cause the ground floor of the court house to be put in repair, for the use of the circuit and district courts of Tahlequah district; and said courts shall thereupon be held in said court house, in the room in the first story; and thereafter, the rooms of the upper story of said court house, shall be set apart and occupied as the office of the national printing press; and the manager of said press, shall confine his office, material and necessary press appliances, to the rooms of said upper story.

CHAPTER VII.

AN ACT RELATING TO DISTRICTS AND REPRESENTATION IN NATIONAL AND GENERAL COUNCIL.

ART. I. Relating to Districts.
II. Representation in National Council.
III. Representation in General Council.

ARTICLE I.

RELATING TO DISTRICTS.

Sec. 1. The Cherokee Nation shall be divided into nine districts, to be defined as follows, to-wit:

SEQUOYAH DISTRICT.

Sec. 2. Beginning at the mouth of Salisaw creek; thence up the same to the crossing of Rogue's path; thence along said path to within ten yards of Sen-e-kah-wee's house, leaving Sen-e-kah-wee's in Sequoyah district; thence in a direct line to a point one hunderd yards north of Edward Still's; thence in a direct line to Corn Tassel's, in Flint district; thence in a direct line to the Yellow Springs; thence to George Still's wagon road, leading to Stone's saw mill; thence in a direct line to Tsi-a-no-na's, leaving Tsi-a-no-na's in Flint district; thence in a direct line to the line of the State of Arkansas; thence south along said line to the Arkansas river; thence up said river to the place of beginning.

ILLINOIS DISTRICT.

Sec. 3. Beginning at the point where Rogue's path crosses Salisaw creek; thence on a direct line to Allen Gafford's on Elk creek, and down said creek to its junction with the Illinois river; thence across Short Mountain to Eli Harlan's, leaving Harlan's in Illinois district; thence

along the road to Joseph Coody's, thence along the road to William Hendricks', leaving Hendricks' in Tahlequah district; thence on the main road to the line of the military reservation of Fort Gibson; thence north on said line to the north-east corner of the reservation; thence west on the reserve line to Grand river; thence due west to the line of the Muskogee Nation; thence south on said line to the Arkansas river, and down said river to the mouth of Salisaw creek, and up the same to the place of beginning.

CANADIAN DISTRICT.

Sec. 4. Beginning at the junction of the Arkansas and Canadian rivers; thence up the Canadian river to the line of the Muskogee Nation; thence along said line to the Arkansas river, and down the same to the place of beginning.

FLINT DISTRICT.

Sec. 5. Beginning at the point where Rogue's path crosses Salisaw creek; thence along the line of Illinois district to the Illinois river; thence up said river to the mouth of Caney creek, and up said creek to the mouth of Buffington's spring branch, and up said branch to the wagon road at Buffington's; thence along the main old road to the crossing of the south branch of the barren fork of the Illinois river; thence up said branch to the line of the State of Arkansas; thence south on said line to the line of Sequoyah district; thence west on said line to the place of beginning.

GOING SNAKE DISTRICT.

Sec. 6. Beginning at the mouth of Little Caney creek, at the residence of the Eagle; thence up said creek to its source at John Young's; thence to Dick Sanders' on the barren fork of Illinois river; thence along the road to James McDaniel's, on Illinois river; thence along the road, or path, leading to Grand Saline, to Saline creek; thence up said Creek to the crossing of the Washington county wagon road, at Gores' old cabin; thence along said road to

Flint creek, and up said creek to the line of the State of Arkansas; thence south on said line to the line of Flint district; thence on said line to the mouth of Caney creek, and up the same to the place of beginning.

TAHLEQUAH DISTRICT.

Sec. 7. Beginning at the mouth of Little Caney; thence along the line of Going Snake district to Spring creek; thence down the same to Grand river, and down said river to the line of Illinois district; thence along said line to the Illinois river, and up said river to the mouth of Caney creek; thence up said creek to the place of beginning.

SALINE DISTRICT.

Sec. 8. Commencing at a point on Spring creek where Going Snake and Tahlequah districts corner, and up the left hand fork of Spring creek, by Switchler Lowrey's, and across to Oo-lee-stu-hee's place, leaving said place in Saline district; thence along a path to Oo-lee-stu-hee's old place, leaving it in Saline district; thence along on the ridge to Chu-le-o's place, leaving that place in Saline district; thence to a ford, above Ned Christie's, on Spavinaw; and thence in a straight line to the mouth of a small creek, above Ned Persimmon's, on Grand river, and down the same to the mouth of Spring creek, and up said creek to the place of beginning.

COO-WE-SKOO-WEE DISTRICT.

Sec. 9. Commencing at the crossing of the line of Illinois district on Grand river; thence up said river to the mouth of Rock creek, and up the same to the Missouri, Kansas and Texas railroad; thence north on said road to the line of the State of Kansas; thence west on said line to the 96° of west longitude, and south on said meridian to the northern boundary line of the Muskogee Nation, and east on the same to the north east corner of said Muskogee Nation; thence south on the line of said Nation to the line of Illinois district, and east on said line to the place of beginning.

DELAWARE DISTRICT.

Sec. 10. Commencing at the mouth of Rock creek, on Grand river, and up said creek to the Missouri, Kansas and Texas railroad; and thence north on said road to the line of the State of Kansas; thence east to the line of the Seneca, Quapaw and other affiliated tribes; thence following the boundary line between said tribes and the Cherokees, to the line of the State of Missouri; thence south on said line, and the line of the State of Arkansas, to the line of Going Snake district; thence west on said line to the south-east corner of Saline district; thence on the line of said district to Grand river, above Ned Persimmon's; thence by the river to the place of beginning.

ARTICLE II.

APPORTIONING REPRESENTATION IN THE COUNCIL.

Sec. 11. In accordance with article third, section second of the amendment to the constitution, there shall be elected, at the election to be held on the first Monday of August, 1877, and thereafter until the taking of the next census, as provided for by the constitution, the following number of members of the council, from each district, to wit:

From	Illinois	District,	4	members.
"	Canadian	"	3	"
"	Sequoyah	"	3	"
"	Flint	"	3	"
"	Going Snake	"	4	"
"	Delaware	"	4	"
"	Saline	"	3	"
"	Tahlequah	"	5	"
"	Coo-we-skoo-we	"	4	"

ARTICLE III.

REPRESENTATION IN THE GENERAL COUNCIL.

Sec. 12. The representation in the General Council of the Indian Territory, to which the Cherokee Nation by its population is entitled, shall be eighteen, and shall, until otherwise ordered, be apportioned as follows, to wit:

From	Canadian	District,	2	members.
"	Sequoyah	"	1	"
"	Flint	"	1	"
"	Going Snake	"	2	"
"	Delaware	"	2	"
"	Coo-we-skoo-we	"	3	"
"	Tahlequah	"	2	"
"	Saline	"	2	"
"	Illinois	"	2	"

And one to be elected by a joint vote of the National Council, and commissioned by the Principal Chief. The term of office of membership of the General Council shall be two years, and they shall be elected at the times, places and manner provided by law.

CHAPTER VIII.

AN ACT RELATING TO ELECTIONS.

ART. I. Relating to Elections.
II. Manner of Contesting Elections.
III. Frauds at Elections.

ARTICLE I.

RELATING TO ELECTIONS.

Sec. 1. Elections for Principal Chief, Assistant Principal Chief, members of the National Council, and all other officers elected by the people, shall be held on the first Monday of August.

Sec. 2. Every male citizen of the Nation, aged eighteen years, who shall have been a "*bona fide*" resident of the district, wherein he proposes to vote, for six months immediately preceding the election, and who shall not have been, after the passage of this act, convicted of any felony, unless restored to such right by pardon or act of the National Council, or who shall not at the time be undergoing punishment in prison, for any crime or misdemeanor, and who shall not be insane, or "*non compos mentis*," shall be deemed a qualified elector.

Sec. 3. The clerk of each district in which an election is to be held, shall promptly, and as generally as may be, promulgate the writ of election, or proclamation of the Principal Chief, for the information of the qualified electors of his district. He shall cause to be published, by posting up in some conspicuous place, at each and every precinct in his district, the names of all persons put in nomination for office, ten days prior to the election. He shall also appoint and notify, in writing, two clerks and two superintendents of election for each precinct, one of whom shall

be able to speak both Cherokee and English, selecting them as equally as may be from the supporters of the opposing candidates.

Sec. 4. He shall provide and furnish the clerks of each precinct in his district, the necessary blank rolls and envelopes to be used in conducting the election.

Sec. 5. The rolls shall be headed, "Returns of election held on the —— day of ——, at —— precinct, —— district, Cherokee Nation;" and shall state the offices to be filled, and the names of the candidates to each, and shall be ruled with the necessary spaces to record the names of the voters, and the votes each candidate may receive. There shall be thus prepared and furnished, one roll for Principal and Assistant Principal Chiefs and members of the National Council, and one for sheriffs, judges, clerks, members of the General Council of the Indian Territory, and all other officers that may be elected by the popular vote. Before delivering the envelopes and rolls to the clerks of the election, the clerk of the district shall affix his seal of office to each, and no others shall be used, unless unavoidable; and, when others are so used, the superintendents and clerks, shall, on the roll, state the reasons therefor.

Sec. 6. In case of the death, absence, or inability to act, of any superintendent or clerk of election, at any precinct, the legal voters present may choose, "*viva voce*," from qualified voters present, such number as may be necessary to fill the vacancy; but no person shall be appointed clerk or superintendent who is a candidate for office at such election, or who is not a qualified voter of the district.

Sec. 7. Before entering upon the discharge of their duties, each of the superintendents and clerks shall be required to take the following oath (or affirmation), to wit:

"You, and each of you, do solemnly swear (or affirm), that you will well and truly conduct the election; that you will not in any manner, while in the discharge of your duty, attempt to influence or bias the voting of any voter, or suffer the same to be done by others in your presence; but that you will in all things faithfully conform to the requirements of the law governing elections, to the best of your ability, without favor, partiality or fraud. So help you God."

Said oath or affirmation may be administered by any person authorized by law to administer oaths, or by any of the superintendents or clerks of the election.

Sec. 8. After the superintendents shall have been qualified, they shall appoint three suitable and discreet persons to act as supervisors, to be selected as equally as possible from among the supporters of the opposing candidates. The supervisors shall, before entering upon the discharge of their duty, take the following oath, which may be administered by either of the clerks or superintendents of election: to-wit:

"You, and each of you, do solemnly swear, that you will faithfully perform all the duties of supervisors during the present election; that you will not in any manner, while in the discharge of your duty, attempt to influence or bias the voting of any voter, nor suffer the same to be done by others; but will in all things conform to, and, to the best of your ability, require others to conform to, all the requirements of the law governing elections, without partiality, favor, or fraud. So help you God.

Sec. 9. Before the opening of the polls, the supervisors shall measure and mark off a space of fifty feet, encircling the polls, within which no person, except the officers of the election, shall be allowed to come but for the purpose of voting, and then but one at a time. Each voter, after casting his vote, shall promptly retire beyond the prescribed limit.

Sec. 10. The supervisors shall have full authority to maintain and preserve the peace during any election, and the counting of the votes, and making up the returns thereof; and for that purpose, they may, if necessary, summon any number of persons present, to aid and assist in quelling any riotous or disorderly conduct, or to prevent any threatened breach of the peace. They shall suppress the sale of, or indulgence in, intoxicating drinks, by wasting such liquors, and may arrest, and remove from the precinct, any drunken or disorderly persons, or hold, and deliver to the custody of the sheriff for prosecution, any person guilty of a criminal violation of law.

Sec. 11. The polls shall be opened between the hours of seven and eight o'clock in the forenoon, and kept open

until sunset of the same day; but a recess of one hour may be taken at noon, the superintendents and clerks remaining in company and in possession of the rolls. On the opening of the polls, one of the superintendents shall proclaim the same in an audible voice to the voters present, and state what offices are to be filled. No superintendent, supervisor, or clerk of election shall be allowed to influence or bias, or attempt to influence or bias, the voting of any voter, by word, deed, or in other manner, while in the discharge of his duty, nor to delay, or prevent, the casting thereof, except as hereinafter provided for the challenging and determining the qualifications of voters.

Sec. 12. It shall be the duty of the superintendents, clerks, and supervisors of elections, to challenge the vote of any person, whom they know, or suspect, to be not a legally qualified voter. For the determining of the legality of a challenged vote, the superintendents shall receive the statement of the voter, on oath, and such other sworn evidence as may be there and then available, upon which they shall determine the question of his right to vote, and for this purpose any clerk or superintendent may administer oaths.

Sec. 13. On opening of the polls, one of the superintendents or clerks shall expose, for the inspection of the voters present, the rolls then to be used, before any names of the voters are recorded thereon. And if necessary to lengthen any roll, for the accommodation of voters, it shall be done publicly, by attaching to the main roll the necessary blanks, before any names are recorded thereon; and the superintendents and clerks shall state such fact in their certificate.

Sec. 14. One of the clerks shall record the name of each voter, as he presents himself to vote, and place his vote to the candidate, or candidates, designated by such voter; the other clerk shall carefully observe that no mistakes are made in the registry of votes. Each voter

shall state, "*viva voce*," the name of each candidate for whom he desires to vote. Either of the clerks, when required by a voter, shall distinctly name the candidates for each office, stating the number to be elected, beginning with the first, then in like manner proceeding to the next, and ending with the last office on the roll.

Sec. 15. There shall be kept a roll of every person whose vote is challenged, and permitted to vote, also, a roll of every person challenged and not permitted to vote, showing for whom such person intended to vote; and said rolls shall be certified to, and signed by the superintendents and clerks in like manner as the regular poll list, and shall be transmitted with the returns.

Sec. 16. As soon as the polls are finally closed, and before leaving the room or place of holding election, the superintendents and clerks shall proceed to sum up the whole number of votes cast at the precinct, and the number for each candidate, and shall continue without adjournment, until completed. The whole number of votes cast, as well as the number for each candidate, shall be stated at the foot of the roll, after which, they shall certify to the correctness of the rolls, sign, envelope, seal, and address the same to the clerk of the district, and mark "election returns of —— precinct, —— district." The counting of the votes shall be done publicly, in the presence of any person desiring to witness the same, and the result shall be publicly announced by one of the superintendents, who shall state the whole number of votes polled, and the number received by each candidate. The returns shall be taken charge of by the superintendents, who for that purpose shall remain together.

Sec. 17. On the following (next) day after the election, the superintendents shall assemble at the regular place of holding court in each district, and deliver the returns to the clerk of the district, who shall be present to receive the same, and who shall, in the presence of the superintendents

so assembled, proceed to open and count the vote of each precinct, and issue a written certificate of election to each candidate, to the number requisite for each office, who shall have received the highest number of votes. The returns shall again be carefully enveloped and sealed up in a single package, and marked, "election returns for —— district, Cherokee Nation;" and be placed by the clerk in the hands of the sheriff or his deputy, on the same day that they are received. And the sheriff, or his deputy, shall, within six days after such returns are to him delivered, deliver the same in person to the Principal Chief, or his secretary, at the seat of government.

Sec. 18. In any election in which there shall be no choice, in consequence of two or more competing candidates for a particular office receiving the same number of votes, the Principal Chief, upon receiving notification of the fact from any authentic source, shall immediately issue a writ authorizing the holding of another election in the district in which such tie may have occurred; and it is made the especial duty of the clerk of the district, at the time the returns are transmitted, to promptly notify the Principal Chief of any tie that may occur in his district. And any clerk failing or refusing to report such tie, shall be suspended from office by the Principal Chief. Any number of candidates may compete for the office in any such election.

Sec. 19. The returns for Principal and Assistant Principal Chiefs, and members of the National Council, shall be made through the Principal Chief, to the National Council, superscribed "to the President of the Senate," and marked "election returns of ——— district, Cherokee Nation."

Sec. 20. The returns for members of the General Council of the Indian Territory, and officers requiring commissions, shall be addressed "to the Principal Chief," and marked, "election returns of —— district, Cherokee Nation." The

Principal Chief shall be authorized to open the returns addressed to him, and, no legal objection appearing, he shall commission the candidates who appear to be duly elected; but such commission shall not be a bar to action to any person who may wish to contest such election.

ARTICLE II.

MANNER OF CONTESTING ELECTIONS.

Sec. 21. Every person wishing to contest the right of another to a seat in either branch of the National Council, shall, within forty days after holding of the election, make oath before the clerk of the district wherein the contest arises, that he has good and sufficient cause to contest the same; and the clerk shall thereupon issue a written notification to the person holding the certificate of election, which notification shall distinctly set forth all the grounds for such contest, and be, within ten days after its issuance, served by the sheriff upon the person holding the certificate of election, either personally or by leaving a copy thereof at his usual place of residence, and be returned within five days after its service by the sheriff, with his certificate of service thereon, stating the manner thereof, to the party obtaining the same, who shall transmit it, with his evidence, to the presiding officer of the branch of the National Council, wherein the contest is to be determined.

Sec. 22. After the service of the notification, either party may proceed to take testimony before the clerk, upon the issues set forth in such notification, and the clerk shall afford, to either party, every facility to mature testimony, and the testimony so taken shall be by the clerk certified to, enveloped, sealed up, and addressed to the presiding officer of the branch of the National Council, wherein the contest is to be determined, with the names of the parties, and the nature of the case, endorsed upon the envelope. And the testimony thus taken, endorsed and directed, shall be delivered to the respective parties inter-

ested, each holding the testimony taken in his own interest; and the testimony may be so taken, from time to time by either party, until the Monday immediately preceding the meeting of the National Council. No other testimony shall be received, or accepted, from either party in the determination of such contest, except the official returns and certificate of election; *provided, however*, in elections held during the sessions of the National Council, or so short a time previous thereto, as to preclude a fair and full investigation, as herein provided for, contests may be brought and prosecuted directly before either house of the National Council, under such rules as the house may prescribe.

Sec. 23. Every contestant shall, upon the assembling of the members elect, and before any of them are qualified, declare verbally, or in writing, in person, by counsel, or by a member whose seat is not contested, his purpose to contest a certain seat, and that he has complied with all the requirements of law, and is ready to present his case, whereupon all the testimony, taken as hereinbefore provided, shall be submitted.

Sec. 24. No person whose right to a seat in either branch of the National Council is contested, shall be sworn in, or be permitted to participate in any of the business proceedings of the house while the contest is pending. He may, however, enjoy the freedom of the house on his good behavior, pending the contest.

Sec. 25. As soon as a permanent organization is effected, and before proceeding with any other business, the presiding officer of the house wherein the contest is pending, shall cause all the testimony in the case to be read; and the house shall at once proceed to examine and determine such case. A majority of the members present, being a quorum of the whole, as required by the constitution to transact business, shall be necessary to admit to a seat,

either the contestant, or the person holding the certificate of election. A tie in either branch of the National Council in a contested election case, shall be deemed a tie of the voters of the district wherein the contest originated, and shall be by the presiding officer reported to the Principal Chief, who shall issue a writ of election, as provided for by law.

Sec. 26. The election of Principal Chief may be contested by petition to the National Council, signed by at least one hundred electors, setting forth the grounds on which the said election is contested; and, thereupon, the two branches shall meet in joint session, and elect a committee, to consist of two members of the senate and three of the council, who shall take into consideration said petition, and shall have power to compel the attendance of witnesses and the production of papers; and when said committee shall have reported to their respective houses, the two houses shall again meet in joint session to consider said report; and, if it shall appear that the Principal Chief obtained his election by bribery, fraud, or tumult, or other illegal or improper means, his office shall be declared vacant, and the Acting Principal Chief shall issue a writ of election within five days thereafter, directing the holding of an election to fill such vacancy. Not less than thirty, nor exceeding forty days' notice shall be given of said election. And whenever the office of Principal Chief shall be declared vacant, as herein provided, the National Council shall thereupon adjourn; and shall be again convened by the Acting Principal Chief, within ten days after the holding of such special election, to receive and count the votes thereof, and to instal the Principal Chief elect, and to transact such other business as may be submitted for their action.

Sec. 27. The election of Assistant Principal Chief may be contested, and shall be conducted in like manner as provided for in contesting the election of Principal Chief.

Sec. 28. Any person desiring to contest the election of sheriff, clerk or other officer elected by the people and commissioned by the Principal Chief, shall be required to obtain a written notification, upon oath, from the clerk of the district wherein the party holding the certificate of election resides, which notification shall be obtained within twenty days after such election, and shall set forth all the grounds of contest, and be served by the sheriff in like manner as provided for contesting elections of members of the National Council. And the parties may, in like manner, take testimony for twenty days after the service of the notification; after which time, and within ten days, each party shall deliver the testimony, so taken in his own interest, to the chief justice of the supreme court, who shall, as early as practicable, convene and hold a special session of the court for the hearing and determining such contest. The court shall be confined to the testimony so presented, and shall receive none other from either party, excepting the official returns, certificate of election, or commission of defendant. And the court shall have power to award the office to the contestant, or declare the same vacant, as the facts and circumstances of the case may require. A certified copy of the decision of the court shall be by the chief justice transmitted to the Principal Chief, who shall commission the person declared duly elected, or order another election, as the case may require; *provided, however*, if the election of the clerk of the district is contested, and he be the incumbent, the Principal Chief shall, upon the written application—setting forth the reasons therefor—of any person wishing to contest such election, appoint and commission a special clerk for that purpose.

Sec. 29. Elections for members of the National Council, and all officers elected by the people, and requiring to be commissioned, may be vitiated and declared void, wholly or in part, for the following reasons, to wit:

Failure of the superintendents and clerks, or any of

them, to qualify; failure of the clerks to record the names or votes of voters; failure of the superintendents and clerks, at the close of the election, to cast and foot up the registry of voters; failure by them, or any of them, to properly certify to, seal and transmit the returns; failure of the clerk of the district to properly envelope, seal up, endorse and transmit the returns; failure of the sheriff to properly transmit or deliver the returns in like condition as received, as by law directed; or any such election may wholly or in part, be vitiated and declared void, upon sufficient proof of any other facts or circumstances that would destroy the competency of such returns as evidence.

Sec. 30. And whenever it is made to appear that the holder of the certificate obtained his election by bribery, treats, fraud, intimidation or collusion with or by the officers conducting the election, the contestant, or person having the next highest vote, shall be declared duly elected.

ARTICLE III.

FRAUDS AT ELECTIONS.

Sec. 31. Every person, not having the qualification of a voter, who shall fraudulently vote, or attempt to vote, at any election, or who shall vote, or attempt to vote, more than once for the same candidate, at any election, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined not less than one hundred dollars, and be imprisoned for any time less than one year and exceeding six months, and be forever disqualified from voting.

Sec. 32. Every person who shall, by bribery or treats, attempt to influence any voter in giving his vote, or shall use any threats to procure any voter to vote contrary to the inclination of such voter, or to deter him from giving his vote, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined in a sum not less than one

hundred, and not more than five hundred dollars, or be imprisoned for any time less than one year, and exceeding three months, or by both fine and imprisonment, at the discretion of the court.

Sec. 33. Every superintendent of election, who shall willfully and knowingly receive or sanction the reception of the vote of any person, not having the qualification of a voter, and every superintendent, clerk, or supervisor of election, who shall be guilty of a willfull neglect of duty, or of any corrupt action in the execution of the same, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined in a sum of not less than one hundred dollars, nor more than one thousand dollars, and be imprisoned for any term less than one year, and exceeding three months.

Sec. 34. Every person who shall, by violence, threats, or riotous conduct, attempt to disturb or break up any election, or unlawfully prevent the free exercise of the elective franchise, or shall assault, or attempt to intimidate any candidate for office, at the time and place of holding election, shall be deemed guilty of a misdemeanor, and, upon conviction, be imprisoned for any term less than twelve months, and exceeding six months, and be fined not less than one hundred dollars, nor more than five hundred dollars; *provided*, if the offense thus committed would, under other circumstances, be a felony, punished by imprisonment, the offender shall be imprisoned for any term not less than the longest period attaching to such felony, and *provided, further*, if such offense be committed by three or more persons, armed with any deadly or dangerous weapon, they shall be deemed guilty of treason, and, upon conviction, suffer death by hanging.

Sec. 35. Any person, who shall fraudulently alter, mutilate, destroy, or unlawfully open, after being sealed up, any returns of election, shall be deemed guilty of a felony, and, upon conviction, be imprisoned for not less than one year, nor exceeding five years.

CHAPTER IX.

AN ACT RELATING TO ADMINISTRATIONS.

ART. I. Letters of Administration, Executor and Guardianship.
II. Relating to Minors.
ART. III. Relating to Wills.
IV. Descent of Property.

ARTICLE I.

LETTERS OF ADMINISTRATION, EXECUTOR AND GUARDIANSHIP.

Sec. 1. The power of granting letters of administration upon estates of intestates, letters of executorship, and letters of guardianship for minors and other persons, for whom the appointment of guardians may be provided for by law, shall be vested in the judge of the district court of the district wherein such intestate, testator, minor or other person may have, or may have had, an usual place of residence. And the judge shall be authorized and required, when necessary, to hold a special term of his court, at the usual place of holding court, for the purpose of hearing and determining the claims of contestants for administration, executor or guardianship, and shall notify all the parties in interest, of the time and purpose of holding such court, and shall determine the issue, as shall be most conducive to the interest of the parties, and conformable to the provisions of law.

Sec. 2. In granting letters of administration, executor, or guardianship, the following order shall be observed, to wit: 1st. In granting letters of executorship, the persons, if any, named in the will shall be preferred. 2d. In granting letters of guardianship, or letters of executorship, upon estates of testators, in whose wills no executors are named, and letters of administration upon estates of intestates, the father or husband first, and mother or wife

next, shall be preferred. 3d. Such person as may be selected by the distributees, or a majority of them, and recommended by them in writing to the judge, shall be preferred; and in such cases the interests of minors, and such others as require guardianship, shall be represented by guardians. 4th. The judge may select from among those who stand in the same degree of relationship, by blood, to the deceased, or to such minor or other person, such person, as in his judgment is most competent to discharge the duties required of him. 5th. If no person entitled as above to administer, should apply for letters within sixty days after the death of any person, administration shall be granted to any creditor, or other suitable person making application therefor; no person applying as above, the judge shall appoint some suitable and competent person to take charge of the estate, and settle up the same according to law; *provided*, no person, being a minor, or of unsound mind, or who has been, or may be, convicted of felony, or who may be undergoing imprisonment, shall be appointed administrator, executor or guardian. *And, provided, further*, that if any person in the foregoing orders shall be by law incapaciated, or shall fail to give bond, as required by law, the person entitled in the next order following, shall be preferred.

Sec. 3. Every administrator, executor or guardian, when obtaining letters, shall file with the judge granting such letters, a temporary bond, with surety to his satisfaction, given according to law, in a sum double the probable amount of the property to come into his hands, by virtue of his letters, and shall be required then to take an oath, a certificate of which shall be endorsed upon the letters by the judge, to render a full and complete schedule of all the property, and to faithfully conform to all the requirements of law; and the judge shall thereupon appoint three suitable and competent persons, whose duty it shall be to appraise and make out a schedule of the property of such estate, minor or other person, which schedule shall give,

in detail, the description and valuation of such property, be certified to, on oath, and be signed by the appraisers, and be, by the clerk of the district, placed upon record, as required by law.

Sec. 4. The failure of any administrator, executor or guardian, to file a schedule of the property in his possession by virtue of his letters, with a permanent bond in a sum double the amount of the property, with surety, as required by law, when required by the judge so to do, and within thirty days after the granting of his letters, shall be sufficient cause for the revocation of the same; and when, by the death of any surety, or his removal from the Nation, or by his subsequent insolvency, any bond shall, in the opinion of the judge, be insufficient, he shall require other good and sufficient surety; and, upon failure of any administrator, executor, or guardian, to give such additional surety, within the time required by the judge, his letters shall be revoked. No administrator, executor or guardian, shall be allowed to sell or dispose of an estate or ward, until he has filed a permanent bond, and rendered a schedule of the property.

Sec. 5. It shall be the duty of every administrator, executor and guardian, at least semi-annually, at the regular terms of the district court, and oftener if required by the judge, to report to him, under oath, an account of his administration, executor or guardianship, which account shall show the disbursements of the administrator, executor or guardian, every item of which, and the amount thereof, shall be distinctly stated; it shall show the receipts of money or property, and from what source the increase or decrease of property, and cause of such increase or decrease, if any; and, upon failure of any administrator, executor, or guardian so to do, his letters shall be revoked, unless a reason satisfactory to the judge be given for such failure.

Sec. 6. Letters of administration, executor, or guardianship, shall not be revoked unless for good and sufficient cause; and, whenever application is made by any person for the revocation of such letters, it shall be done in writing to the judge of the court granting the letters, and shall, as concisely as possible, set forth the grounds or reasons of complaint, and the administrator, executor or guardian, shall be notified thereof, and be required to appear and answer thereto, at such time and place as the judge may appoint. And the judge shall hear and determine the complaint upon the statement of the parties, and such other evidence as may be submitted by either, in such manner as the right and justice of the cause may appear unto him. And if the cause be deemed sufficient, he shall remove such administrator, executor or guardian, and immediately appoint another; but all the lawful acts of any administrator, executor or guardian, removed by any judge, shall be valid and binding upon his successor; *provided*, that whenever letters of administration, executor or guardianship, are revoked for any cause, not expressly permitted by law, the action of the judge revoking such letters, may be inquired into, and confirmed, or set aside, by any court, in a suit at law brought before it, and whenever such action of the judge is a subject of controversy.

Sec. 7. It shall be the duty of every administrator, or executor, within ten days after filing his permanent bond, to give written notice of his appointment, by posting the same, in Cherokee and English, at the court-house, and two other public places in the district, or, in like manner, in the *Cherokee Advocate*, three several times, at intervals of one month, and to certify the same to the clerk, to be by him recorded. And every person having a claim against such estate, shall present the same, on oath, to the administrator or executor, within six months after such public notice is given, otherwise such claim shall be void, and not recoverable by law; *provided*, *however*, if such administrator or executor die, or be removed within the

six months, such claim may be presented to the judge granting the letters, to be by him turned over to the person next appointed.

Sec. 8. Every administrator, executor or guardian, shall be required to collect all debts or claims due the estate or ward, and for this purpose, he may, as such, institute and prosecute suits at law, for their recovery; and he may, also, defend suit instituted against him as such, before any of the courts of this Nation, and for this purpose he may employ counsel in such cases, wherein he is a party, *provided*, the whole amount of fees, in any case, paid to attorneys, shall not exceed ten per cent. of the amount in controversy.

Sec. 9. Every administrator and executor, shall assume all the relations of the deceased person, upon whose estate he may have obtained letters, and none other. In all suits at law, instituted by or against such deceased persons, such suits shall be prosecuted or defended, in every particular, as if no demise had occurred; *provided*, that, if at the next term of the court, after the death of such person, there be no administrator or executor of his estate appointed, the judge of the court, in which such suit is there pending, shall continue the same to the term following.

Sec. 10. No debts, or claims, against any estate, shall be paid, unless approved by the judge, or upon a decree of court, and not until after the expiration of the six months' notice required to be given, excepting the necessary funeral expenses of, and medical attendance upon such deceased persons. After the expiration of the six months' notice, and, if the condition of the estate will permit, all the lawful demands against such estate shall be paid out of its effects, liable to such payment, and if the estate be insolvent, the demands shall be paid "*pro rata*" to the creditors, and if necessary to make such "*pro rata*," the property shall be sold at public sale, after twenty days' notice of the time and place of such sale, by posting the

same, in English and Cherokee, at the court-house, and two other public places in the district, or, in like manner, in the *Cherokee Advocate*, for two issues. And when the demands against an estate are paid, as above, and as soon thereafter as the condition of the estate will allow, the residue of the property shall be distributed, according to law, to the heirs, males at twenty-one, and females at eighteen years of age; *provided, however*, if any heir shall lawfully marry before the ages hereinbefore named, such heir shall be deemed of lawful age, and be entitled to receive the share due him. The shares of minors shall be paid to their guardians, who shall be required to preserve and pay over the same to their wards, unless otherwise requiring guardianship, as provided above.

Sec. 11. The judge of the district court shall appoint, to be selected as guardians for minors, guardians for idiotic, blind, and insane persons; but, before such appointment is made, he shall cause such person to be examined, by one or more physicians, as whether such cause for appointment exists or not, and, if so, he shall make the appointment, upon the certificate of such physician, to that effect; *provided*, if no physician is to be had to make the examination, the judge shall appoint three disinterested and discreet persons, to make such examination, who shall certify to the same on oath.

Sec. 12. Guardians of minors, may, with the approval of the judge of the district court, apply to the support and education of his ward, in the schools of this Nation, such portion of his property, as may be necessary for that purpose; and any money or property so applied, shall be charged to such ward, as so much of his share received.

Sec. 13. Every administrator, guardian, or executor, shall, on the final and satisfactory settlement of the business of the estate or ward, with the judge of the district court, be entitled to eight per cent. of the value of property that may have been in his possession by virtue of his letters;

provided, however, if any administrator, executor or guardian be removed, and such removal be sustained, he shall forfeit all of his fees.

Sec. 14. All improvements shall be exempted from the payment of debts against any estate, and in the administration of estates, where there is a surviving wife or husband, or minor child or children, all the property exempted by law from execution shall likewise be exempt from the payment of debts against an estate, and shall be at once turned over to the surviving parent or guardian, for use of the family.

Sec. 15. It shall be the duty of every administrator, guardian or executor, with the approval of the judge, to sell or dispose of, for cash, or other property, all property so perishable in its nature, that it cannot be preserved without material loss, or at an expense disproportionate to its worth; *provided*, such property, so sold, shall be first valued and placed upon the schedule, as required by law; and the administrator, executor or guardian, shall report the same in his next settlement, with the kind and value of property received in lieu of it.

Sec. 16. Every administrator, executor or guardian, who shall fraudulently withhold from appraisement any property belonging to an estate or ward, or every appraiser who shall corruptly or fraudulently value such property, shall be deemed guilty of perjury, and, upon conviction, shall be punished as by law provided.

Sec. 17. Every administrator, executor, guardian, or other person, who shall fraudulently and corruptly secrete, or destroy or mutulate, any will or other instrument of writing of value, belonging to any estate or ward, shall be deemed guilty of felony, and, upon conviction, be imprisoned for not less than one, nor exceeding three years, and be fined in double the amount of damages sustained by the party injured.

ARTICLE II.

RELATING TO MINORS.

Sec. 18. Any contract whereby the title to, or possession of, property is conveyed or transferred, to which contract a minor shall be a party, shall not be lawful, and is hereby forbidden, except the consent of the guardian of such minor, should there be one appointed, and if not, of the parent of such minor, be obtained previous to the making of such contract. And any adult person who shall enter into any contract forbidden in this section, shall, for such offense, forfeit, for the benefit of the minor with whom such contract is made, twice the full value of the consideration of such contract on part of the minor, upon suit hereby authorized to be instituted by the parent or guardian.

Sec. 19. When property of any kind shall be given or granted to any minor having no guardian, such deed of gift or grant, shall be recorded in the office of the district clerk of the district in which the giver shall reside, with the conditions and requirements, if there be any, in reference to the grant; and no title involved in any property conveyed or granted to a minor, shall pass to the minor during the life of the grantor, except the deed shall be recorded, and then only from the date of the record thereof; *provided*, that no grant or gift of any property whatever to a minor by an adult, under the provisions of this section, shall exempt the property so granted from any liabilities to which such property would be lawfully subject, had no such grant been made.

Sec. 20. The guardian shall have the control and disposal of the ward, with the advice and consent of the district judge who shall appoint him; and, for any gross neglect or mistreatment of any ward, the guardian shall be removed from his trust, and shall be also held responsible upon his bond to the amount of injury inflicted, recoverable upon suit by the guardian next appointed, or by the ward upon his coming of age, or by his administrator.

Sec. 22. It shall be lawful for any parent or guardian to select and make, or otherwise acquire, a lawful title to one improvement, and no more, for each of his children, or wards, having none; which improvement, when made and acquired for the use of the child, may be transferred, by record of the transfer duly made in the office of the district clerk of the district where the improvement may lie, within six months after the improvement is made, or the title acquired, by the parent or guardian. After being registered to the child, as required, the improvement, so registered, shall be, and be held to be, the rightful property of the minor, until he shall come of age, under the regulations and exemptions in reference to improvements, as though such minor was in all cases an orphan; *provided*, that during the minorship of the child owning any improvement, the person making the transfer shall, as natural guardian, be responsible and authorized to answer, as plaintiff or defendant, in all suits that may arise, involving the right to, or use of, such improvement, or any part thereof.

Sec. 23. Whenever a minor shall die, and leave property or effects of any value in his own right, his estate shall be administered upon, appraised and divided among heirs, as provided by law in case of the decease of an adult. The guardian of any deceased minor shall have, in all cases, the preference of administering, upon his application for letters, within the time prescribed by law.

Sec. 24. No claim shall be paid by an administrator or executor of an estate, unless he shall personally know that the debt is just, or unless he shall have good and satisfactory reasons to believe, that a recovery of the debt would follow a suit at law for the same. Any administrator, who shall settle doubtful claims out of the effects of an estate, shall be liable upon his bond to the estate, to the amount of the doubtful claim settled, upon suit brought by any heir or creditor.

ARTICLE III.

RELATING TO WILLS.

Sec. 25. Every person of lawful age, being at the time of sound and disposing mind, shall have the right, by last will, to dispose of all his improvements and other property, that he may die possessed of. All written wills shall be signed by the testator, or by some other person in his presence, and by his direction, and be witnessed by at least one person not interested in the disposition of the property made by such will; and all verbal wills shall be proven by at least two persons not interested in the disposition of the property made by such will, and shall be made during the last sickness of such testator, or under circumstances dangerous to life, and which resulted in his death, and shall be proven and recorded within thirty days of the death of the testator.

Sec. 26. All wills shall be recorded as by law required, by the clerk of the district wherein the testator may have had an usual place of residence.

Sec. 27. After the payment of the debts, as provided by law, the residue of the property and effects shall belong to the persons to whom, and in the manner devised; *provided*, that legitimate children born to the testator after the making of the will, shall inherit equally with those provided for by the will; and *provided, further*, that if no provision be made in such will for any legitimate minor child, such child shall be entitled to such share of the property, as he would have inherited according to law, if there had been no will.

Sec. 28. No written will, nor any provision thereof, shall be revokable, but by the testator destroying, canceling or obliterating the same, or causing the same to be done in his presence, or by a subsequent will or declaration in writing, made and executed in manner set forth in the preceding section; *provided*, no will made by any

person not of lawful age, unless self-dependent, and having no guardian at the time of making such will, nor by any person not of sound and disposing mind, at the time of making such will, nor by any person who may be "*non compos mentes*," shall be valid.

Sec. 29. Any person interested, may, at any time within one year, by suit instituted for such purpose, before the court having jurisdiction of the amount at issue, contest the validity of any will admitted to record, with proof satisfactory to the judge; and the issue shall be made up and tried as other issues, to determine whether the writing produced be the will of the testator or not, and the verdict of the court shall be final between the parties to the issue; but if no person shall appear within one year after the record of such will, it shall be valid and forever binding, saving to minors and persons "*non compos mentes*," one year to contest such will, after the removal of their disabilities; *provided*, that in case of a concealed fraud, the limitation provided in this section, shall begin to run, at, and not before, the time when such fraud shall be, or with reasonable diligence might have been, first known or discovered.

ARTICLE IV.

DESCENT OF PROPERTY.

Sec. 30. Whenever any person shall die possessed of property not devised, the same shall descend in the following order, to-wit:

1st. In equal parts to the husband or wife, and the children of such intestate, and their descendants; the descendants of a deceased child, or grand child, to take the share of the deceased parent equally among them.

2d. To the father and mother equally, or to the survivor of them.

3d. In equal parts to the brothers and sisters of such intestate, and their descendants; the descendants of brothers or sisters, to take the share of the deceased parent equally among them.

4th. When there are none of the foregoing persons to inherit, the property of such deceased person shall go to his next of kin by blood. Kindred of the whole and half blood, in the same degree, shall inherit equally.

5th. The property of intestates, who have no surviving relative to inherit as above, shall escheat to the treasury of the Nation, to be placed to the credit of the orphan fund.

CHAPTER X.

AN ACT RELATING TO EDUCATION.

ARTICLE I.

RELATING TO EDUCATION.

Sec. 1. For the purpose of maturing and adopting the best possible system of education for the youth of the Nation, and for the purpose of devising the best means for placing a liberal education within the reach, as nearly as possible, of all of the children of the Nation, and enabling those who speak only the Cherokee language, to acquire more readily a practical knowledge and use of the English language, there shall be permanently established a board of education, with such powers as shall be conferred by law.

Sec. 2. The board of education shall consist of the Principal Chief, the Assistant Principal Chief, Executive Council, Treasurer, and three commissioners, to be appointed by the Principal Chief, with the advice and consent of the senate, and whose term of office shall be co-extensive with that of the Chief appointing, or until their successors are appointed and qualified.

Sec. 3. The Principal Chief shall be *ex-officio* president of the board. He shall convene the board whenever he shall deem it expedient, preside at its sessions, advise with the members thereof, but shall not vote except in cases of tie. He shall perform such other duties as may be imposed upon him by the board, or by the National Council.

Sec. 4. A majority of the board shall constitute a quorum, competent to transact business.

Sec. 5. In the absence of the Principal Chief, the Assistant Principal Chief shall preside. In the absence of both Principal and Assistant Principal Chiefs, the board shall designate one of its number to act as president "*pro tem.*"

Sec. 6. The board shall appoint one of its number secretary thereof, who shall act as such during the pleasure of a majority of the board.

Sec. 7. The secretary shall keep full and correct minutes of the proceedings of the board, and shall furnish annually, by the first day of November, of each year, to the Principal Chief, a detailed statement of the same, the condition of the schools, and of the school and orphan funds, with such suggestions and recommendations as the board may deem necessary for advancing the cause of education among the people, which report shall be submitted by the Principal Chief, for the information of the National Council, together with the reports, or a synopsis thereof, of the school commissioners.

Sec. 8. The secretary may order a special meeting of the board, whenever a majority of the board shall deem it expedient.

Sec. 9. The board of education shall have complete supervision and control of the orphan asylum, the male and female seminaries, and of the educational interests of the Nation at large, subject to such restrictions or direction, as may be imposed by law.

Sec. 10. For educational purposes, the Nation shall be divided into three districts, to be known as the first, second and third school districts. The first district shall embrace Coo-we-skoo-we, Delaware and Saline; the second, Tahlequah, Going Snake and Flint; the third, Sequoyah, Illinois and Canadian districts.

Sec. 11. The board shall assign one commissioner to each of the three school districts, who shall act under instructions of the board.

Sec. 12. They shall constitute an examining board, and shall meet at the seat of government semi-annually, at the close of each school term, for the purpose of examining applicants for schools, and shall then and there examine all persons offering themselves as candidates for teachers of common or district schools, in regard to moral character, learning and ability to teach, and shall deliver to each person examined and found qualified, a certificate signed by all, or a majority of them, as to degree of qualification, and in such form as shall be prescribed by the board of education; and no person shall be deemed a qualified teacher within the meaning of this section, who has not such a certificate in force. Certificates shall be graded first, second and third class, and shall entitle the person holding the same to a school of that grade, and entitle the teacher to pay accordingly; *provided*, that the board of education may, if deemed expedient, modify, change or suspend this classification.

Sec. 13. Each of the school commissioners shall be required, within one year after the beginning of the regular term of office, to ascertain, and report to the board of education, the whole number of children over seven and under twenty-one years of age in his school district, and the number in each of the three districts of the school district under his superintendence. Such report, or census, shall state the number of each sex, language spoken by them, and their nationality; and also the number of orphans without parents and with one parent. They shall visit semi-annually all schools under their immediate supervision, and report thereon, at the close of each school term, to the Principal Chief, which reports, or a transcript thereof, shall be, with the report of the secretary of education, furnished annually to the National Council, within

ten days after the organization of the regular session thereof.

Sec. 14. The board of education shall assign schools to applicants holding certificates from the examining board, according to grade. No teacher shall be assigned to a school of a higher grade, than the grade of his certificate. Teachers, principals and assistants, and all other help or employees for the orphan asylum, the male or female seminaries, shall be appointed and assigned to duty by the board of education.

Sec. 15. For school purposes, each year shall be divided into two sessions or terms of twenty weeks each, as the board may determine; and the teachers shall be paid accordingly. Those teaching the district schools shall be paid upon warrants issued by the Principal Chief upon the treasurer, and based upon the reports of the teacher, certified by the trustees, and approved by the commissioner of the district in which the school was taught. Principals and assistants in the orphan asylum, and in the male and female seminaries, shall be paid in the same manner, upon their certified accounts, approved by the secretary of the board of education. All other employees shall be paid as the board shall direct.

Sec. 16. The board of education shall adopt, and provide such uniform text-books, stationery, globes, maps, apparatus, fixtures and appliances, as they shall deem necessary, in any or all of the schools under their control; and shall, as equally as may be, apportion and apply the school and orphan funds to all children who are entitled to participate in the benefits arising therefrom. They shall fix an age at and above which children may be admitted into the orphan asylum, to the primary departments of the seminaries, and to the district schools; but all youth of the male sex, under twenty-one years of age shall have the right to enter the seminaries and prosecute their studies therein, for the regular term of four years; *provided*, that

such youth shall be required to comply with such conditions as shall be prescribed by the board of education, in pursuance of law.

Sec. 17. The board of education shall, without delay, cause the male seminary to be re-opened and manned with an efficient corps of teachers, for both the advanced and primary departments thereof. It, the female seminary, now in operation, with the primary departments thereof, shall be conducted upon one and the same basis; *provided*, that the board of education may, if deemed expedient, have authority to modify, change or alter such basis, for the purpose of co-educating the sexes.

Sec. 18. The full term of study in the primary departments of the seminaries, shall be three years, that in the seminaries, four years. In re-opening the male seminary, not exceeding fifty boys may be admitted the first year, after which the board may determine the ratio, and time of admission to the male and female seminaries, and to the primary departments of the same.

Sec. 19. For admission to the seminaries for the first two years, the grade of scholarship for advanced pupils shall be, reasonable proficiency in spelling, reading, writing, arithmetic—embracing addition, subtraction, multiplication and division—and the geography of the States and Territories of the United States; selections to be made with a view to age and proficiency of pupil. The board may, after the second year, raise the standard of admission.

Sec. 20. The board of education shall furnish tuition, clothing, board and lodging, to children of the primary department gratuitously, and shall have full control of such children while attending school, and until they shall have completed their term of study. They shall furnish, gratuitously, tuition only, to other pupils attending the seminaries, but shall provide board at actual cost, and no more, and receive, in payment for the same, National

warrants or certificates, at their face value, such pupils being required to provide their own bedding and clothing. The board, may, however, make exception in favor of such youth as are unable to pay for their board, and they shall be required to furnish their clothing and bedding only. As soon as the condition of the funds will admit of it, the Nation shall defray all expenses, save only clothing and bedding of the youth attending the seminaries.

Sec. 21. The board of education, in order to better and more rapidly educate the youth of the Nation, in letters, science, morality, and habits of industry, shall, as rapidly as may be, enlarge the means of boarding school education at the seminaries, or establish as many other boarding schools as shall be necessary for the attainment of these ends. For this purpose they may, in their discretion, reorganize the school system, and discontinue a portion of the district schools, and apply the funds to the maintenance of such boarding schools; and in the establishment of such schools, the rights, interests, and wants of all classes of citizens shall be equitably provided for.

Sec. 22. In order to inculcate habits of industry among pupils attending the boarding schools now in operation, or to be hereafter put into operation, the board of education shall have authority to declare such schools to be *industrial or manual labor boarding schools;* and shall, whenever deemed expedient, provide the necessary means for promoting the agricultural and mechanical industries in such schools.

Sec. 23. The board of education may, in their discretion, and until the means of a higher education be provided at home, cause a small number of the male sex to be educated at the expense of the school fund, at any institution of the States of the United States. And such young men as have enjoyed the least advantages of the school fund, shall have precedence.

Sec. 24. Day scholars may be admitted to the boarding schools in such numbers and upon such terms as the board of education may determine; and whenever there shall be a sufficient number of such pupils in regular attendance upon any boarding school, the board of education shall, if deemed expedient, employ one or more additional teachers for such schools, free of charge to such pupils.

Sec. 25. Teachers and school commissioners shall be entitled to such compensation as shall be fixed by law, to be paid out of the school and orphan funds. The Principal Chief, Assistant Principal Chief, Treasurer and Executive Council, as members of the board of education, shall receive out of the general fund, their regular salaries, or *per diem*, as fixed by law, and no more.

Sec 26. The district schools shall remain at their present locations, until otherwise located by the board of education or by law.

CHAPTER XI.

AN ACT IN RELATION TO THE ASYLUM FOR THE BLIND, INSANE AND OTHERS.

ART. I. Organization.
II. Duties of Trustees.
III. Duties of Steward.
ART. IV. Admission of Persons.
V. Miscellaneous Provisions.

ARTICLE I.

ORGANIZATION.

Sec. 1. The board of trustees for the asylum for the insane, and indigent blind, deaf and dumb, and decriped, heretofore established by law, shall consist of the Principal Chief, Assistant Principal Chief, Treasurer and three trustees to be appointed by the Principal Chief, by and with the advice and consent of the senate, and whose term of office shall expire with that of the Principal Chief appointing them. The Principal Chief shall be "*ex officio*" president of the board, and the national treasurer shall be "*ex officio*" treasurer thereof. A majority of the board shall constitute a quorum to transact any business connected with the asylum; *provided*, it shall require the affirmative vote of a majority of the whole board, to repeal or change, alter or amend, any by-law of the board, or to remove any officer appointed by the same. The board shall appoint one of their number secretary.

ARTICLE II.

DUTIES OF TRUSTEES.

Sec. 2. The trustees shall manage and direct the affairs of the asylum, and make all necessary by-laws and

regulations for the control and government of said institution, not inconsistent with the constitution and laws of this Nation.

Sec. 3. The board of trustees shall appoint a medical superintendent, whenever deemed necessary, and until then, they may contract with any competent physician for his services, at such times as they may be required. They shall also appoint one steward, and such other officers and assistants as may, from time to time, be necessary.

Sec. 4. The board of trustees shall keep a fair and full record of all their doings, and shall maintain an effectual inspection of the asylum, for which purpose one of their number shall visit the institution, at least once a month, and they shall hold a meeting of said board at the institution once every three months, and special meetings may be called, in the manner prescribed by the by-laws; and the secretary shall, on or before the 15th day of October, of each year, make a true report of the actual condition of the asylum to the Principal Chief, for the information of the National Council.

Sec. 5. The board of trustees shall, until otherwise provided by law, fix and determine the compensation of the steward, and other officers and assistants, as they may deem necessary, for the just and economical administration of the affairs of the asylum.

Sec. 6. The board of trustees shall furnish such bedding and clothing as may be necessary, to such inmates of the asylum as may be unable to obtain the same, and shall cause to be procured, and prepared under the direction of the steward, such food as may be suitable to the wants and condition of the several inmates, and shall purchase such medical supplies as may, from time to time, be required for the use of the asylum.

ARTICLE III.

DUTIES OF STEWARD.

Sec. 7. The steward shall be required to give bond, with surety, according to law, in such sum as may be required of him by the board; and his term of office shall be the same as that of the board appointing him, unless sooner removed. He shall have the general superintendence of the buildings, grounds and farm, with their furniture, fixtures and stock, the direction and control of all persons thereon, subject to the by-laws and regulations of the board of trustees; he shall daily ascertain the condition, and, under the direction of the physician employed, shall administer to the sick and others such treatment as may be by him prescribed; he shall also be required to see that all the rules and regulations for the discipline and good government of the institution are properly obeyed and enforced; he shall keep a complete record of the name, age, sex, district, date of reception and leaving the institution, death, and from what cause, of each inmate; and he shall also keep a record of all his doings, and of the entire business and operations of the institution, to be kept regularly from day to day, in books furnished for that purpose, in the manner and to the extent required of him by the board, and report the same to the secretary of the board, by the 1st day of October of each year; *provided*, that, whenever the permanent medical superintendent is appointed, he shall perform all the duties required by the steward by this section.

Sec. 8. The steward shall keep a regular account of disbursements made by him for the institution, take vouchers for the payments, and keep carefully, and file away all original bills of purchases made by him, under direction of the board, and settle his account with the treasurer as often as may be required of him by the board. His accounts shall always be open to the inspection of any member of the board; he shall be accountable for the

economical use of all furniture, stores, and other articles provided for the asylum, and shall perform such duties as may be required of him by the by-laws, in the general superintendence and management of the affairs of the institution.

ARTICLE IV.

ADMISSION OF PERSONS.

Sec. 9. Every person applying for admission into the asylum, shall, by himself, guardian or friend, present to the steward an application, in writing, showing the cause of admission, and that he is destitute of the means of support, and that he has no relatives able, or willing, to be burdened with his support, and the same shall be certified to on oath, by two respectable citizens, before the clerk of the district, wherein such person may have resided last, whereupon such person shall be admitted to the asylum by the steward, and reported to the board of trustees, at the next meeting, for their final action. The trustees may cause such applicant to be examined, by the attending physician, as to his mental and physical condition, and make such other inquiry, or cause to be made, as to his condition, as may be deemed necessary, and determine accordingly; *provided*, any person who may be, partially or wholly demented, shall be admitted into the asylum, for treatment or confinement, upon application and proof being made of such insanity as above.

Sec. 10. In case the friends or relations of any lunatic shall neglect, or refuse, to place him in the asylum, and shall permit him to go at large, it shall be the duty of the judge of the district court wherein such lunatic may reside, or be found going at large, on the suggestion, in writing, of any citizen of the district, to order the sheriff to take charge of such person, and place him in the asylum, and the steward shall receive and provide for him, until otherwise directed by the board.

ARTICLE V.

MISCELLANEOUS PROVISIONS.

Sec. 11. The trustees appointed by and with the advice and consent of the senate, shall be paid each four dollars per day while in actual service, and the actual expense of the other members, while attending the meeting of the board, shall be paid by the Nation.

Sec. 12. There is hereby annually appropriated out of the asylum funds, the sum of —— dollars, or so much thereof as may be necessary for the support and maintenance of said asylum; and the Principal Chief is hereby authorized to draw warrants for the same, as specified by the board of trustees, and report annually thereof to the National Council.

Sec. 13. From and after the first day of January, 1875, all laws authorizing the payment of pensions to any persons whatever, shall be repealed.

CHAPTER XII.

MISCELLANEOUS ACTS.

ART. I. Drovers' Tax.
II. Trade and Intercourse.
III. Incorporating Town of Fort Gibson.
IV. Regulating Interest on Notes.
V. Establishing the Seat of Government
VI Recovery of Stolen Property.
VII. Fixing Compensation of officers and other persons
VIII. Fixing Places for holding elections.
IX. Attorneys.
X. Vacancy in office.
XI. National Newspaper.
XII. Military and Agency Reserve.
XIII. Publication of Penal laws.
ART. XIV. Permits to hire citizens of the United States.
XV. Intermarriage of White men and Foreigners.
XVI. Arbitration of Civil causes.
XVII. Minerals.
XVIII. Dangerous Weapons.
XIX. Marriage and Divorce.
XX Lawful Fences.
XXI. Prohibiting the Sale, and Restricting the Lease of Real Estate.
XXII. Grist Mills.
XXIII. Stray Property.
XXIV. Licensed Traders.
XXV. Intruders.
XXVI. Liability of the Cherokee Nation to her own citizens.

ARTICLE I.

DROVERS' TAX.

Sec. 1. Every person, except citizens of the Cherokee Nation, who may wish to drive stock through the Nation, may do so by paying to any of the sheriffs of the Nation, or their deputies, or other person duly authorized by the treasurer, (for the benefit of the general fund), the following tax, viz: For beef, work and stock cattle, except sucking calves, five cents each; loose horses, mules, jacks and jennies, five cents each, except sucking colts; sheep, hogs and goats, one cent each, except sucking pigs, lambs and kids.

Sec. 2. Every person, not a citizen of this Nation, engaged in driving stock through the Nation as above provided, who shall keep such stock in the Nation a longer

time than is necessary to pass through the Nation, shall pay an additional tax, at the rates fixed in section first, for every week, or fractional part of a week, while such stock remains within the limits of the Nation.

Sec. 3. Stock may be received in payment of taxes, in case the drover is unable to pay ready cash, or in lieu thereof, national warrants or certificates. And all stock so received shall be sold for the benefit of the general fund of the Nation, in such manner as the treasurer shall direct; and the person collecting, keeping and selling such stock, shall be entitled to fifteen per cent. in kind, of all sales made and returned to the treasurer.

Sec. 4. Every sheriff, or person entrusted with the collection, care and sale of stock under this act, shall keep certified records of all stock received in payment of taxes, and of all funds received upon sales thereof, and make returns of the same quarterly, to the treasurer. They shall also promptly report all persons who shall be guilty of resisting or of evading the enforcement of the same, to the treasurer, who shall adopt such remedial measures as he shall deem expedient.

Sec. 5. Families moving through this Nation with less than fifty head of stock cattle, or mixed stock, shall be exempt from the enforcement of the preceding provisions.

Sec. 6. Every sheriff or person levying and receiving tax of drovers, shall keep correct account of, and report the number and kind of stock taxed, to the treasurer, when required by him, and shall receipt such drover for the amount received, and such receipt shall be a passport through this Nation for such stock, upon which tax has been paid.

Sec. 7. In all cases where a sheriff, or other person acting under lawful authority, has reason to believe that efforts are being made to evade the provisions of this act, by collusion of some citizen of the Nation with the owner

of stock, such citizen claiming to be the owner, such sheriff, or other person, shall require the claimant to exhibit his bills of purchase, or establish, by witnesses, how he came into possession of the stock in question. If deemed necessary to arrive at the facts, he may put such claimant, or any other person supposed to be cognizant of the facts in the premises, upon oath, and question him, or them, as to the "*bona fide*" ownership of such stock. And in all such cases, if it appear that there has been fraud attempted for the purpose of evading the revenue laws of this Nation, then, and in that case, there shall be levied double the amount of tax which would otherwise have been done, and any cost which may attach to the investigation; and one half of taxes so collected shall go to the person collecting, and the other to the general fund of this Nation.

Sec. 8. Every citizen of this Nation, who shall be cited to answer, on oath, questions as to the ownership of stock passing through or being grazed in the Nation, who shall refuse to answer, shall be liable to indictment for violation of the revenue laws of this Nation, and, upon conviction before any court of competent jurisdiction, be deemed guilty of a misdemeanor, and be fined in any sum, at the discretion of the court, not exceeding five hundred dollars, payable, one half to the person prosecuting and recovering the same, and the residue to the general fund of the Nation.

Sec. 9. The term, "driving stock through this Nation," shall be deemed to mean traveling through the Nation on a direct traveled route towards the point of destination, at a rate of not less than fifteen miles per day for horses, mules, jacks and jennies, ten miles per day for cattle, and five miles per day for hogs, sheep, and goats; *provided*, that unavoidable detention by high water shall not be construed as a violation of the provisions of this act.

Sec. 10. Citizens of the Osage, and other Nations adjacent to this Nation, introducing or permitting their herds or

flocks to range or graze upon the pasturage of this Nation, unless unavoidable and in small numbers, shall be liable to all of the provisions of this act; and the stock so running in this Nation, on the refusal of the owner to pay the lawful tax, may be seized by the lawful authority of this Nation and sold for such tax.

Sec. 11. Persons driving stock into this Nation for the purpose of wintering, grazing or feeding the same, shall be liable for the tax thereon, at the same rates fixed for persons driving stock through the same.

ARTICLE II.

TRADE AND INTERCOURSE.

Sec. 12. Every person transacting, or proposing to transact a mercantile business in the Cherokee Nation, shall make application for, and receive license for that purpose from the National Council. Such applicant shall make affidavit setting forth the name and style of the party or firm, and of every member or partner thereof, the place where he or they design to trade, and the nature of the business or merchandise; and shall pay into the general fund of the national treasury, on the receipt of such license, the sum of one-fourth of one per cent. on all bills of purchases, and shall continue to pay at the same rates, and at the beginning of each quarter thereafter, for all new or additional bills of goods received and offered for sale.

Sec. 13. Every person who shall attempt to trade, or otherwise dispose of merchandise, goods or wares, without previously obtaining a permit or license, shall be fined, on conviction thereof, before a court of competent jurisdiction, in any sum not less than one hundred dollars, nor exceeding twenty thousand dollars, for each and every such offense, at the discretion of the court; *provided*, that the treasurer may issue license to a citizen or citizens of the Nation, only when the National Council is not in session,

on the payment of the proper tax, and upon compliance with the requirements of this act; which license shall be good until the adjournment of the session of the National Council next ensuing.

Sec. 14. Should it appear that any false affidavit has been made, either by omitting to name or misnaming any principal or partner to a mercantile firm, or by rendering any false invoice of goods, or by suppression of, or by failure to render an invoice, then, and in that case, the person so falsely representing such firm, shall be deemed guilty of perjury, and be proceeded against accordingly.

Sec. 15. The executive clerk shall, at the close of each annual session of the National Council, furnish to the treasurer a full and correct list of all licenses to trade, granted under this act, with all the names of each firm; and the treasurer shall keep a correct record of all such licenses, together with such as he may grant between the annual sessions of council, showing to whom issued, the nature of the business, and the place or places where such parties may trade.

Sec. 16. Every peddler or trader entering the Nation on foot, horse-back, or in wagons or otherwise, with trinkets, jewelry, books, pictures or other prints, or with merchandise of whatever description, shall, before offering such effects for sale, obtain from the treasurer, or from the district clerk of the district in which he proposes to begin to sell, a written license or permit for that purpose. Such peddler or trader shall produce, for the information of the treasurer or district clerk, a full invoice or list, verified on oath, of his stock on hand, and pay a tax thereon at the rate of five per cent.; *provided*, that sacred or moral literature introduced for sale or gratuitous distribution by colporteurs, preachers of the Gospel, or by other agents of Christian societies, shall be exempt from taxation; *provided, also*, that improved stock and poultry, breadstuffs,

meats, uncanned fruits and vegetables, grain for food, and seeds of every kind for planting, shall also be exempt from taxation.

Sec. 17. It shall be and is hereby made the duty of the sheriff of any district, in which any person shall have violated the intent of this act, to seize such person with his merchandise, vehicles, team, store-house, or place of business, and them safely keep, until the case can be reported and acted upon by the lawful authority, in conformity with the treaties and laws of this Nation, or with the intercourse laws of the United States.

ARTICLE III.

INCORPORATING THE TOWN OF FORT GIBSON.

Sec. 18. The town reservation of Fort Gibson, as defined by law, and the country thereto adjacent, for a distance not to exceed one mile from the boundary thereof, for the purposes of this act, are hereby declared to be within the corporate limits of the town of Fort Gibson, and the inhabitants, citizens of the Cherokee Nation, residing within the limits aforesaid of said town, be, and they are hereby constituted a body politic and corporate, by the name of "Mayor and Town Council of the town of Fort Gibson," by which name they and their successors may sue and be sued, defend, and be defended, in all courts of law, in all matters and actions whatsoever, and may grant, purchase, receive and hold property of any description, within the limits proper of said town, and may have, sell and dispose of the same for the benefit of the town, and may do all other acts the same as natural persons, not contrary to the constitution of the Cherokee Nation.

Sec. 19. The corporate powers and duties of said town shall invest in one mayor, and five members of the council, to be selected annually, on the first Monday in December of each year, and to continue in office till their successors

are elected and qualified, according to this act; and the said mayor and members of the council shall take an oath, before entering into office, to faithfully discharge their duties; and all qualified electors of the Cherokee Nation, residing within the corporate limits of said town of Fort Gibson, shall be entitled to vote in the election of the mayor and council, and a majority of the votes thus cast at an election shall be necessary to a choice of such officers, and no person shall be chosen mayor, or member of the council of the town of Fort Gibson, who shall not be of lawful age, and an inhabitant of said town.

Sec. 20. The mayor, or such member of the council as may be designated by such, in the absence of the mayor, shall preside at the meetings of the town council, which shall be regulated by ordinance. He shall be the executive power of the said town of Fort Gibson, and conservator of the peace within the corporate limits thereof, and shall have full power and authority to do, and perform all things which may be lawfully done by a judge of the district in criminal matters, in accordance with the powers and authority herein conferred upon him.

Sec. 21. He shall be vested with full powers to enforce all ordinances passed by the council, and approved by the mayor, or by the unanimous vote thereof, in case of his failure to approve the same within three days after the passage thereof, and its presentation to him; to assess all fines for a violation of said ordinances, not exceeding the sum of fifty dollars, and to issue executions for the collection of the same. In case of murder, the mayor may cause the arrest of the perpetrator, and cause him to be turned over to the sheriff of the district for trial, by any court having jurisdiction thereof, but, in all other offenses, misdemeanors and crimes, the mayor and town council may have authority to arraign, hear, and punish the same, as may be prescribed by the laws of the Cherokee Nation, or the ordinances of said town; *provided*, that they shall not

have the power to inflict, without trial by jury, punishment by stripes, or restrain a person of his liberty longer than two months. The said mayor and town council shall also have jurisdiction in determining rights to property, or the collection of debts, where the amount involved shall not exceed the sum of twenty-five dollars.

Sec. 22. Any three members of the town council shall constitute a quorum to transact business, but a less number may adjourn, from time to time, and compel the attendance of absent members, in such manner as the council may prescribe. The members of the town council shall judge of the election, qualifications, and returns of the mayor, and their own members, and determine rules for their own proceedings, which shall be recorded by the clerk of the town council, in a journal to be kept for that purpose.

Sec. 23. The town council of Fort Gibson, shall have full power and authority to pass by-laws and ordinances to prevent, define and remove nuisances, to restrain and prohibit all disorderly houses and gaming, the introduction and vending of intoxicating drinks, to establish and regulate a market, to cause the streets to be opened, repaired and paved, by the inhabitants and non-resident owners of houses, lots and property in said town; *provided*, the tax imposed on non-residents for said purpose be in exact proportion to an *ad valorum* tax imposed on all property belonging to residents in, and situated within, the corporate limits of said town of Fort Gibson; to provide for the prevention and extinguishment of fires; to dig wells and erect pumps for the convenience of the inhabitants; to restrain all violence, obscenity and disorderly conduct, within the limits of the town; to assess and collect fines for a violation of the ordinances, and to collect a tax for defraying the expenses of the town, and the improvements thereof; and generally, to pass such by-laws and ordinances for the regulation of the town, as they may deem

necessary, not contrary to the provisions of this act, or the constitution of the Cherokee Nation. No tax shall be imposed by the town council of Fort Gibson, in any one year, on property within the town, at a higher rate than one-half of one per centum on the assessment value of the same, unless two-thirds of the persons therein interested, shall, by vote taken for that purpose, authorize the same to be done.

Sec. 24. In order to carry into effect the provisions of this act, the town council of Fort Gibson shall have authority to provide by ordinance for the appointment or election, of one clerk, one constable, one assessor and collector of taxes, and such other officers as may be necessary, prescribe their duties, fix their compensation, and remove them from office. It shall also have authority to select, lay off, enclose, hold and regulate, by purchase or otherwise, twenty acres as a cemetery for the burial of dead bodies, and may prohibit the interment of such bodies anywhere within the limits of said town.

Sec. 25. The clerk of the town council shall attend the mayor's courts, issue all writs and summons and other necessary papers, keep a true, full and correct record of all arrest and trials, and of all town lots and ownership of the same.

Sec. 26. The mayor and town council of the town of Fort Gibson, shall cause to be made a re-survey of all that part of the original town not embraced within the military reserve. They shall in such re-survey retrace, as nigh as may be, the original streets and allies, cause the streets to be re-opened, all obstructions to be removed therefrom, and all blocks and lots to be staked with stone, iron or durable timber, and to be lettered and numbered according to range and number; in consideration of which, every odd lot, the property of the Nation in such town reserve, shall be the property of the corporation of Fort Gibson, to be used for the benefit of such corporation.

Sec. 27. All other lots, the property of the Nation, may be sold, from time to time, by order of the mayor, and for the benefit of the general fund of the Nation, in such manner as shall be ordered by the Principal Chief; one third the price bid for lots so sold, shall be paid at the time of sale, and the residue in two equal annual installments.

Sec. 28. Upon final payment for any lot, the mayor shall issue a receipt in full to the purchaser, upon the presentation of which the Principal Chief shall execute the necessary conveyance to the owner. Lots not paid for, as herein provided, shall revert to the Nation, without recourse for payments previously made thereon.

Sec. 29. Writs for the arrest of persons charged with a violation of the ordinances of the town corporation, may be served by any sheriff into whose district the person accused may have fled; and such sheriff, so arresting, shall safely deliver the prisoner to the constable of the town, to be dealt with according to the ordinances of the same.

ARTICLE IV.

REGULATING INTEREST ON NOTES.

Sec. 30. All promissory notes, executions or judgments, payable in cash, shall bear interest at the rate of *ten per cent.* per annum; *provided, however*, that contracts may be made in writing, for the payment of a rate of interest as great, but not exceeding fifteen per cent., and all rates of interest exceeding fifteen per cent. shall not be recoverable by law.

ARTICLE V.

ESTABLISHING THE SEAT OF GOVERNMENT.

Sec. 31. The capital of the Cherokee Nation is hereby established at the town of Tahlequah.

ARTICLE VI.

RECOVERY OF STOLEN PROPERTY.

Sec. 32. Property of any kind which shall be stolen, and afterwards found in the possession of a citizen of this Nation, may be demanded and summarily recovered by the owner or rightful possessor thereof, by order of the district judge, directed to the sheriff, to restore the stolen property to the possession of the owner. Such order shall be issued either upon the sworn and positive statement of the owner alone, that he has seen and knows the property in question to be the same, which at a given time and place, was stolen from him or from his possession; or upon other valid and substantial proof to that effect, which may be required by the district judge. But in all cases, before any order or writ of possession shall be issued, the demand shall be supported by evidence satisfactory to the district judge, and after notice duly given to any innocent purchaser, of the pendency of such investigation.

Sec. 33. All proceedings had, and testimony taken, before any district judge, in regard to property claimed to be stolen and demanded, in pursuance of the section preceding, shall be rendered and filed in his office, whether any writ of possession be awarded or refused; and such investigation shall be no bar to any suit which may be instituted by either party, for the recovery of the property in question.

Sec. 34. Any person who shall willfully and falsely claim any property from another, as having been stolen from him or his possession, and falsely make oath in reference to such property to obtain possession thereof, shall be deemed guilty of perjury, and shall be punished accordingly.

Sec. 35. Should any person know or have cause to suspect that property belonging to him, and which has been stolen, is in the possession of another person, he may

notify the possessor, that within a fixed and reasonable time, he will present his claim to such property before the district judge; and should the property be run off or secreted during that time, or withheld from the inspection of the claimant, by the possessor, or with his connivance, so that for that cause the claimant shall be unable or unwilling to definitely identify it; such person so running, hiding or withholding property, after notice to him given as provided, shall be deemed guilty of a felony, and be liable to prosecution as an accessory to the theft of the property so concealed or withheld, and, upon conviction, shall be punished accordingly.

ARTICLE VII.

FIXING COMPENSATION OF OFFICERS AND OTHER PERSONS.

Sec. 36. From and after the first Monday of November, 1875, the salary and pay of the following officers and persons in the employ of the Cherokee Nation, shall be as follows, to-wit:

Principal Chief	per annum	$2000 00
Assistant Principal Chief	"	1000 00
Treasurer	"	1000 00
Supreme Judges, each	"	800 00
Circuit " "	"	600 00
District " "	"	400 00
Solicitor General	"	1000 00
Solicitors of Districts, each	"	400 00
Sheriffs, "	"	400 00
High Sheriff	"	800 00
Clerks of Districts	"	500 00
Executive Council, each	per day	5 00
Members of National Council, each	"	5 00
Clerks of National Council and Executive, each	"	4 00
Interpreters " " " " "	"	4 00
Editor of Advocate	per annum	1000 00
Translator "	"	800 00
Clerk of Supreme Court	"	300 00
Guard, Jurors and Witnesses	per day	2 00
Board for man and horse	"	2 00
Board for man	"	1 00
Auditor of Accounts	per annum	500 00

Sec. 37. There is hereby annually appropriated out of the general fund, not otherwise appropriated, the sum of thirty thousand dollars, or so much thereof as may be necessary, to pay the salaries of the officers of the Nation, and the Principal Chief is authorized to draw warrants semi-annually for the same, in favor of the persons holding said offices.

ARTICLE VIII.

FIXING PLACES FOR HOLDING ELECTIONS.

Sec. 38. The following places, in the several districts, are fixed and designated as precincts for the holding of elections:

IN CANADIAN DISTRICT.

I.—1st, at the court house, Welber's Falls. 2d, at Briar Town school house. 3d, at Texana school house. 4th, at Brushy Mountain Chalybeate Spring.

IN ILLINOIS DISTRICT.

II.—1st, at Fort Gibson. 2d, at the court house on Greenleaf. 3d, at the old court house on Illinois river. 4th, at Au qua-ta-kee's, on Vian creek.

IN SEQUOYAH DISTRICT.

III.—1st, at Thomas Ross', in Sweet Town. 2d, at Tobacco Will's. 3d, at Little John Rogers'.

IN FLINT DISTRICT.

IV.—1st, at the court house. 2d, at Broken Canoe's. 3d, at Hungry Mountain school house.

IN DELAWARE DISTRICT.

V.—1st, at Charles Thompson's. 2d, at Ned Barrows'. 3d, at John Thompson's, on Grand river. 4th, at Richard Taylor's. 5th, at Ned Bigmushe's.

IN GOING SNAKE DISTRICT.

VI.—1st, at Reese Mitchels', on Illinois river. 2d, at Piney. 3d, at the court house. 4th, at Rabbit trap, near Thos. Wilkeson's.

IN TAHLEQUAH DISTRICT.

VII.—1st, in the town of Tahlequah. 2d, at Catron's Spring. 3d, at Big Sequoyah's. 4th, at the school house, near Suyatah's.

IN SALINE DISTRICT.

VIII.—1st, at T. L. Rogers' salt works. 2d, at the court house. 3d, at Sequoyahs, on Spring creek.

IN COO-WE-SKOO-WE DISTRICT.

IX.—1st, at the Sulphur spring, on Dog creek. 2d, at the White spring. 3d, at Yellow spring. 4th, at Jim Davise's. 5th, at John Fallen's.

ARTICLE IX.

ATTORNEYS.

Sec. 39. Before any citizen shall be allowed to appear before the courts of this Nation, for the purpose of practicing law for other parties, he shall obtain a license from the treasurer, or from one of the judges of the supreme or circuit courts, authorizing him to practice law from the date of such license.

Sec. 40. For a license to practice only before the district and circuit court judges, in civil and criminal cases, the applicant therefor shall pay, in advance, five dollars; and for license to practice before all the courts and judges of this Nation, ten dollars shall be paid in advance. The judges shall report annually to the treasurer, turning over all moneys, national warrants, or tickets that they may receive for licenses granted under this section; and any citizen so obtaining license, shall have the privilege without further license or tax, and upon compliance with other conditions attached by law to such privilege, to continue to appear as practicing attorney at law before the courts of this Nation, in and before which his license authorized him to appear.

Sec. 41. Any person obtaining a license to practice law shall, before he is allowed to appear as an attorney in any court, take the following oath:

"I do solemnly swear, that I will, to the best of my knowledge and ability, support and defend all cases that may be entrusted to my care, and that so doing, I will be true to the court and to the constitution and laws of the Cherokee Nation. So help me God."

Sec. 42. Any attorney practicing before the district and circuit courts, may be removed by any circuit judge, and any attorney practicing before the district, circuit and supreme courts, may be removed by the supreme court, for any deceit, malpractice or other gross misconduct, willful neglect of the interests of his client, or collusion with the opposite party, upon complaint and showing made to the judge or court, at any regular term of the court, by the aggrieved party, and upon due notification given to the accused of such charge, and shall moreover be liable in damages to the party injured; and the expenses of any inquiry instituted by the court in reference to the removal of any attorney, shall be borne by the party respectively, at whose instance the expense shall be incured.

Sec. 43. Parties may manage, prosecute or defend their own suits, and by such counsel as they see fit to engage.

Sec. 44. Any attorney, recognized as such under the laws of any other Indian Nation, and in good standing where so recognized and admitted to practice law, may, on special occasions, and when vouched for by any member of the Cherokee bar in good standing, be allowed, by permission, by the presiding judge, as licensed to appear before any of the courts of this Nation.

ARTICLE X.

VACANCY IN OFFICE.

Sec. 45. In case of the death, resignation, removal from office, or inability to act, of the Principal and Assistant Principal Chief, the president of the senate shall exercise

the duties of the office of Principal Chief, until such disability be removed, or such vacancy be filled by an election by the National Council, according to the provisions of the constitution. If there be no president of the senate, the executive council shall, within thirty days, by proclamation, convene the National Council for the purpose of filling the same; and, in the *interim*, the senior executive counselor shall exercise the duties of the office of Principal Chief.

Sec. 46. Whenever a vacancy shall occur in the office of Assistant Principal Chief, by reason of his death, resignation or removal from office, the same shall be filled by a joint vote of both branches of the National Council.

Sec. 47. In case all, or a majority of the justices of the supreme court are interested in any cause that may be pending in that court, or are related to all or either of the parties to a suit therein, it shall be the duty of the Principal Chief, upon being notified thereof by the chief justice, to select and specially commission such number of persons as shall correspond to the number of parties so interested or related, as shall have been objected to, for the trial of such cause.

Sec. 48. In case one of the justices of the supreme court is interested in any cause pending in said court, or is related to both or either of the parties to a suit therein, such justice being objected to, and the remaining justices are unable to render an opinion in such case; it shall be the duty of the Principal Chief to select and specially commission some suitable person, who shall, in conjunction with the disagreeing justices, constitute a court for the hearing and determining such case.

Sec. 49. Any person, being a member of the National Council, who may remove from the district wherein he has been elected a member, shall, from the date of his removal, cease to be a member of the National Council, and it is

made the duty of the clerk of the district to report to the Principal Chief any vacancy occurring in his district, by reason of the death or removal of any member of either branch of the National Council.

Sec. 50. In case of a vacancy in the supreme court, by the death of a justice thereof, the clerk of the court shall notify the Principal Chief thereof. In case of a vacancy in the office of judge of the circuit court, by reason of the death of such judge, the clerk of the district wherein such judge may have resided, shall notify the Principal Chief of such vacancy. In case of a vacancy in the office of sheriff, solicitor, or judge of the district court, the clerk of the district shall notify the Principal Chief of such vacancy; and in case of a vacancy occurring, by death, in the office of clerk of the district, the solicitor of the district shall report the vacancy to the Principal Chief. All vacancies occurring in the offices of this Nation, shall be filled as required by the constitution of the Cherokee Nation or the laws thereof; but the Principal Chief may, when the public interests demand, make temporary appointments in all offices, the incumbents of which are required to be commissioned by him.

ARTICLE XI.

NATIONAL NEWSPAPER.

Sec. 51. The "Cherokee Advocate" shall have for its object, the diffusion of important news among the Cherokee people, the advancement of their general interests, and the defense of Indian rights; and shall be published weekly, in the English and Cherokee languages; *provided*, nothing of an abusive, personal, nor of a partisan character, shall be admitted into its columns.

Sec. 52. There shall be elected, by a joint vote of both branches of the National Council, an editor, whose duty it shall be to exercise control over the establishment; to

furnish such matter for publication from time to time, as in his judgment will promote the object of its institution; to see that the material and property of the concern is properly preserved and economically used; to receive subscription moneys at the rates fixed by law, and account quarterly to the treasurer for the same; and make annually a report to the Principal Chief, for the information of the National Council, of the condition of the paper and its interests, with an itemized account of its receipts and expenditures.

Sec. 53. He shall be authorized to purchase, and provide transportation, for such necessary material as may be required for publishing the paper, and such other printing as may be required by the National Council or the Principal Chief.

Sec. 54. He shall be authorized to employ, on reasonable terms, such labor as may be required to do the work of the office; *provided*, contracts made with printers by the editor, shall be approved by the Principal Chief before taking effect.

Sec. 55. There shall be appointed, by the Principal Chief, one translator, whose duty it shall be to translate into the Cherokee language, for publication, such laws, public documents and articles, as the editor shall select for such paper.

Sec. 56. The editor and translator shall be subject to removal, by the Principal Chief, for improper conduct, or failure to perform their respective duties; and the vacancy so occurring shall be filled by the Principal Chief, until otherwise ordered by the National Council.

Sec. 57. The terms of subscription to the Cherokee Advocate shall be two dollars per annum, in money, national warrants, or certificates; but may be sent to subscribers who read only Cherokee, for one dollar per copy, to be paid in like manner. The rates of advertising

shall be fixed by the editor, excepting such public advertising as may be furnished by the officers of the Nation, as provided by law.

Sec. 58. The Principal Chief is authorized to draw warrants quarterly, on the general fund, for the salaries of editor and translator, and in like manner for the pay of employees, on the certificate of the editor.

ARTICLE XII.

MILITARY AND AGENCY RESERVE.

Sec. 59. Every military and agency reservation, which is, or may be hereafter occupied by the United States, within the limits of this Nation, and whenever the United States shall cease to occupy the same, shall revert to the Nation; and it will not be lawful for any citizen to take possession of any such reservation, except by the permission of the national authorities, under the penalty of being removed therefrom.

ARTICLE XIII.

PUBLICATION OF PENAL LAWS.

Sec. 60. The Principal Chief shall be required to cause to be published all the acts of the National Council "prescribing a penalty" for their violation, in either or both of the ways provided for in the 7th article of the treaty of July 19th, 1866, as to him may be deemed best for the public interest, within twenty days after the close of the session of the National Council passing such acts. And he shall cause to be entered a certificate of the manner of the publication upon the register of his office. And he may require any officer of a district to post such laws in his district, as he may require of him.

Sec. 61. Every officer of this Nation, who shall willfully or negligently fail, or refuse, to promulgate any act of

the National Council prescribing a penalty for its violation, in the manner required of him by the Principal Chief, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in the sum of five hundred dollars; and in default of payment, be imprisoned for any term not less than six months and less than one year.

Sec. 62. Every person, who shall willfully pull down, destroy, deface, mar or mutilate any notice, posted by any officer of this Nation, for the general information of the people of this Nation, respecting any penal law required by the treaty stipulations to be published, shall be deemed guilty of a misdemeanor, and be, upon conviction, imprisoned not less than three months, and less than one year, at the discretion of the court.

ARTICLE XIV.

PERMITS TO HIRE CITIZENS OF THE UNITED STATES.

Sec. 63. Any citizen of this Nation, who shall desire to hire or employ a citizen of the United States, as a laborer or mechanic, shall be, and is hereby required to obtain therefor a license from the clerk of the district wherein such person may reside; such license shall state the names of employer and employee, occupation to be pursued, and length of time to be employed, and the nationality of the employee; but no permit shall be granted for a longer period than one year. Before such permit is granted, the clerk shall require of the person obtaining the same, to file with him a bond, with not less than two sureties, according to law, in the sum of two hundred and fifty dollars, conditioned upon the good behavior of the employee. And any person who may receive any injury or loss of property, through, or by the action of such employee, may bring suit on such bond, and recover the amount of injury sustained to the extent of the same; *provided*, that the damages sustained by such person would have been recoverable, if the action had been committed by a citizen upon the person or property of another.

Sec. 64. For each permit granted, the clerk shall require of the person obtaining it, fifty cents for every month, or fraction of a month, for which it is granted; and, as early as practicable, and within fifteen days, notify the judge and solicitor of the issuance of such permit, with all the specifications embraced in the section preceding; and in like manner he shall report to the treasurer at the end of each quarter, and turn over to him all the receipts that may have come into his hands for the quarter then ending, after deducting therefrom fifteen per cent. as fees. He shall keep in his office a book in which he shall record all the specifications herein before mentioned; and which book shall, at any seasonable time, be open to the inspection of citizens of the district.

Sec. 65. After the expiration of the time of the permit, such person shall be deemed an intruder, and it is made the duty of the solicitor to report him accordingly.

Sec. 66. Any person, who shall hire or employ any citizen of the United States in any other manner than as provided in the first section of this article, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined in any sum not less than ten, nor exceeding twenty-five dollars, at the discretion of the court; and, in default of payment, be imprisoned not less than fifteen, nor exceeding thirty days.

ARTICLE XV.

INTERMARRIAGE OF WHITE MEN AND FOREIGNERS.

Sec. 67. Whereas, the peace and prosperity of the Cherokee people require, that, in the enforcement of the laws, jurisdiction should be exercised over all persons whatever, who may from time to time be privileged to reside within the territorial limits of this Nation, therefore, every white man, or citizen of the United States, or of any foreign state or government, desiring to marry a Cherokee

woman, citizen of the Nation, shall be and is hereby required to obtain a license for the same from any of the district clerks of the several districts, and make oath or satisfactory showing to such clerk, that he has not a surviving wife from whom he has not been lawfully divorced. And, unless such information be freely furnished to the satisfaction of the clerk, no license shall issue.

Sec. 68. Every white man or person applying for license, as provided in the preceding section of this act, shall, before obtaining the same, be required to present to the said clerk a certificate of good moral character, signed by at least ten (10) respectable Cherokee citizens by blood, who shall have been acquainted with him at least six months immediately preceding the signing of such certificate.

Sec. 69. Before any license as herein provided shall be issued, the person applying shall be, and is hereby required to pay to the clerk to whom application is made, the sum of five dollars, and be also required to take the following oath:

"I do solemnly swear, that I will honor, defend and submit to the constitution and laws of the Cherokee Nation, and will neither claim, nor seek, from the United States, or any other government, or from the judicial tribunals thereof, any protection, privilege or redress incompatible with the same, as guaranteed to the Cherokee Nation by the United States in treaty stipulations entered into between them. So help me God."

Sec. 70. Marriages, contracted under the provisions of this act, shall be solemnized as provided by the laws of this Nation, or otherwise shall be null and void.

Sec. 71. No marriage between a citizen of the United States, or of any foreign nation, and a female citizen of this Nation, entered into within the limits of this Nation, except as hereinbefore authorized and provided, shall be legal; and every person who shall engage or assist in solemnizing any such marriage, shall, upon conviction before any district court of this Nation, be fined one hundred dollars; and it shall be the duty of the solicitor

of the district in which such person may reside, to collect the same; and such solicitor so collecting shall be entitled, for his services, to twenty-five per cent. of the amount collected; and shall place the remainder into the hands of the treasurer, to be by him credited to the general fund.

Sec. 72. Every person performing the marriage ceremony, under the authority of a license provided for herein, shall be required to attach a certificate of marriage to the back of the license, and return it to the person in whose behalf it was issued, who shall within thirty days therefrom place the same in the hands of the district clerk, whose duty it shall be to record the same and return it to the owner.

Sec. 73. Every adopted citizen of the Cherokee Nation, by marriage or otherwise, who shall use the Intercourse law or laws (as they are termed), in the prosecution of a Cherokee Indian, for any criminal offense committed within the limits of the Cherokee Nation, shall forfeit his rights of citizenship to the same, and be subject to be dealt with as other intruders in the country, and shall be removed out of this Nation.

Sec. 74. Should any man or woman, a citizen of the United States or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person (as the case may be), having no rights of Cherokee citizenship by blood; in that case, all of his or her rights acquired under the provisions of this act shall cease.

Sec. 75. Every person who shall lawfully marry under the provisions of this act, and afterwards abandon his wife, shall thereby forfeit every right and privilege of citizenship of this Nation, and shall be considered, and removed from

the Nation, as an intruder; *provided*, that every adopted citizen under the provisions of this act, shall have been a "*bona fide*" resident of the Nation for six months previous to his admission to the polls as a legal voter; and every such adopted citizen who shall be guilty of denying or resisting the jurisdiction of this Nation, or shall appeal to or claim that of any other government, shall be adjudged guilty of perjury, and be liable to all the pains and penalties prescribed in such cases; *provided, also*, that the rights and privileges herein conferred, shall not extend to right of soil or interest in the vested funds of this Nation, unless such adopted citizen shall pay into the general fund of the national treasury, a sum of money to be ascertained and fixed by the National Council, equal to the "*pro rata*" share of each native Cherokee, in the lands and vested wealth of the Nation, estimated at five hundred dollars, and thereafter conform to the constitution of the Nation, and to the laws made or to be made in pursuance thereof, in which case he shall be deemed a Cherokee to all intent, and be entitled to all the rights of other Cherokees.

Sec. 76. Property of every description, possessed within the limits of the Cherokee Nation, by an adopted citizen, shall, in case such adopted citizen abandon his wife without lawful cause, be the absolute property of such wife, or wife and her children. But whenever such abandonment shall be planned or effected by the wife, for the purpose of ridding herself of her husband, then and in that case, such wife shall be entitled to only such property as shall be awarded—upon application of either party for divorce,—by the court having jurisdiction.

ARTICLE XVI.

ARBITRATION OF CIVIL CAUSES.

Sec. 77. It shall be lawful for parties to settle and adjust any dispute or controversy by arbitration; and when that mode is determined upon, the parties shall

place in the hands of each arbiter appointed by them, a written notice to that effect, signed jointly by the parties, which notice shall contain and state, for the information of the arbitrators, the matter of dispute or controversy to be settled; and before the arbitrators proceed to arbitrate and decide such matter, they shall be sworn by the judge of the circuit or district courts, or by the clerk of the district, and their decision shall be final, and shall be recorded in the office of the clerk of such court as would properly have had cognizance of the case, and execution shall issue by him to the sheriff, the same as if judgment had been obtained in such court, unless the arbitrators shall have decided otherwise.

Sec. 78. Any board of arbitrators may appoint their own clerk, who shall receive three dollars per day for his services. The arbitrators shall each be entitled to the sum of three dollars per day during actual service. Subpoenas for the attendance of witnesses shall be issued by the clerk and served by the lawful officer, as in suits at law, and witnesses shall be paid as in other cases. The expense of the arbitration, including the pay of the arbitrators, clerk and witnesses, as fixed in this section, shall constitute the cost of arbitration, which shall be paid by either or both parties in the proportion awarded by the arbitrators, according to the equity of the case.

Sec. 79. Arbitrators shall be sworn to faithfully and fairly hear, examine and determine the cause submitted to them, according to the principles of equity and justice, and to make a just and true award according to the best of their understanding. They shall appoint a time and place for hearing, and shall, in pursuance thereof, proceed with diligence to hear and determine the matters in controversy. But upon application of either party, and for good cause shown, they may adjourn the hearing from time to time, as may be necessary.

ARTICLE XVII.

MINERALS.

Sec. 80. All gold, silver, lead, copper, iron, stone coal, petroleum, salt or other mineral, or medicinal water, existing in its natural state, which has been or may be hereafter discovered within the limits of the Cherokee country, is the property of the Cherokee Nation, and subject to the control of the National Council.

Sec. 81. Every "*bona fide*" citizen of this Nation, who may wish to prospect for and engage in the mining of the minerals thereof—gold and silver excepted,—or in the manufacture of salt, or in the collection or refining of coal-oil or petroleum, or in the preparation and sale of mineral or medicinal waters, shall make application in writing to the treasurer for that purpose, stating the mineral he wishes to operate in, the number and names of the company, the district and section thereof in which located, and the metes and bounds of the reservation on which he proposes operating; *provided, also*, that the same shall not be within, or infringe upon the improvements or legal boundaries or limits of any other citizen or mining company, without the written consent of such other.

Sec. 82. No person or company shall locate, hold or operate a second claim for any particular mineral without first surrendering the claim first located.

Sec. 83. Every person, or company, proposing to engage in mining, shall, before beginning the work, obtain from the treasurer a license for that purpose, which license shall clearly describe the location of the reservation selected, with its metes and bounds, and the minerals to be mined; and shall at the same time execute to the Cherokee Nation, and file with the treasurer and to his satisfaction, a bond in the sum of two thousand dollars, with good and sufficient security, conditioned upon compliance with the requirements of this act.

Sec. 84. Every person, or company, operating in the minerals of this Nation, shall be required to report, on oath, to the treasurer quarterly—on the first days of January, April, July and October, of each year—the gross amount of minerals mined, or salt manufactured, or medicinal waters prepared for sale, during each quarter preceding such report, and at the same time pay into the treasury, for the benefit of the school or orphan funds, a sum of money equal to five per cent. of the value of such minerals at the place of production. And the mines, the stock on hand, the buildings, machinery and fixtures thereto belonging, shall be held liable for the payment of the same. The refusal or failure of any person doing business under the provisions of this act, to comply with the conditions of his bond, shall be good and sufficient cause for the revocation of the lease by the treasurer.

Sec. 85. Every citizen of this Nation, who shall lease, sub-lease, sell, give, or grant, in any manner, any interest in any mine, medicinal or mineral water, in this Nation, to any person other than a citizen of the same, shall be fined in any sum not exceeding two thousand dollars for each and every such offense, and forfeit his bond and lease; and the treasurer is hereby authorized to proceed against such person or company, in the name of the Cherokee Nation, before any court of the Nation of competent jurisdiction.

Sec. 86. No license shall be granted by the treasurer for a longer period than ten years, at the option of the lessee; but every lessee who may elect to renew his lease, and who shall have complied with the terms of his former lease, may do so by complying with the law governing the same; but no new lease shall be granted, or old lease renewed, until all arrears to the Nation shall have been paid; *provided*, that the National Council may, at any time, change, amend, or repeal any or all of the conditions of leases, so as not to affect leases in force at the time of such change or repeal.

Sec. 87. Should any mining company find upon his reservation any mineral other than that named in the lease, and for which the lease was granted, such company shall at once report such discovery to the treasurer; and shall have the right to work the same by incorporating it into the original contract, and by paying five per cent. thereon, for all such mineral obtained; *provided*, that such act of incorporation shall expire on the expiration of the original lease; *provided, further*, that parties locating claims under this act, shall begin work thereon within one year from the date of their license, otherwise such license shall be null and void.

ARTICLE XVIII.

DANGEROUS WEAPONS.

Sec. 88. Every person, a citizen of this Nation, who shall in any way carry arms of any kind whatever, or who shall have on or about his person any dirk, bowie knife, pistol, revolver, slung shot, metal knuckles or other dangerous arm or weapon, except a common pocket knife, unless for the purpose of hunting game, or upon a journey, or in pursuit of fugitives from justice, or in the discharge of duty by virtue of a legal summons, shall forfeit such arms or weapons to the Nation, and be fined in any sum not exceeding one hundred dollars, or be imprisoned not exceeding six months, or be both fined and imprisoned at the discretion of the court having jurisdiction.

Sec. 89. All officers required by law to act as conservators of the peace, and to enforce or serve legal processes, are exempted from this article. And it is hereby made the duty of every sheriff, town constable and their lawful deputies, to disarm all persons detected in violating the provisions of this act; to turn over quarterly to the treasurer all weapons or arms confiscated, and report the person so offending to the solicitor for indictment before the district court of the district wherein the offense was com-

mitted. The judgment of the court shall be final, and no property shall be exempt from execution and sale to satisfy such judgment, improvements excepted.

Sec. 90. One half of fines thus collected, shall be divided equally between the sheriff and solicitor, and the other half shall be paid into the treasury for the benefit of the orphans; *provided*, that, whenever a case is not sustained before the court trying the same, an order shall issue from the court for the restitution of the arms seized; and the treasurer or sheriff shall restore the same accordingly. But in all other cases the arms shall be the property of the Nation, subject to the order of the National Council.

Sec. 91. Citizens of the United States, and foreigners under their protection, lawfully residing, or temporarily sojourning, in the Cherokee Nation, who shall willfully neglect, or refuse, to conform to the requirements of this act, so far as it affects citizens of the Cherokee Nation, shall thereby forfeit the protection of Cherokee laws, and the right or privilege of continuing longer in the Cherokee Nation, and shall be disarmed, arrested and turned over with such arms to the lawful authority for removal beyond the limits of the Cherokee country; *provided*, that the provisions of the preceding sections shall not be so construed as to annul, impair, or in any manner abridge, or destroy, the ordinances and rights of town corporations as guaranteed by law.

ARTICLE XIX.

MARRIAGE AND DIVORCE.

Sec. 92. Marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of the parties, capable in law of contracting, is essential.

Sec. 93. Every male person who shall have attained the age of eighteen years, and every female person who shall have attained the age of fifteen years, shall be capable in

law of contracting marriage, if otherwise competent. But in all cases where the male is less than eighteen years of age, and the female less than fifteen years of age, the consent of the mother, father or guardian of such minor shall be given, otherwise such marriage shall be null and void; unless it shall appear that the parties have no parent or guardian then living, and at the time of marriage are self-dependent.

Sec. 94. No marriage shall be contracted whilst either of the parties has a husband or wife living; nor between parties who are nearer of kin than first cousins, whether of the half or of the whole blood, nor between parties who are insane or idiotic.

Sec. 95. Marriages may be solemnized by any of the judges of the courts of this Nation, or by the clerks of the several districts, or by any ordained minister of the Gospel in regular communion with any religious society. And any marriage contracted in writing in the presence of two or more attending witnesses, who shall sign the marriage contract as such, shall be lawful.

Sec. 96. No particular form of marriage shall be required in the solemnization of marriages, except that the parties shall solemnly declare in the presence of the judge, clerk or minister officiating, or the attending witnesses, that they take each other as husband and wife; *provided*, that citizens of the United States, or those of other than Indian nationalities, intermarrying among the Cherokees, shall first comply with the law governing such cases.

Sec. 97. It shall be the duty of all persons contracting marriage in the presence of witnesses, or who shall, within the Nation, join two citizens thereof in wedlock, or who shall so join a citizen thereof with a citizen of any other government, to report the same to the clerk of the district in which such marriage was solemnized, for registration, giving the full names of the contracting parties, their ages

and previous places of residence, and the clerk shall at once make record of the same, in a book to be kept for that purpose.

Sec. 98. Every person, a citizen of this Nation, who shall, within the Nation, violate the provisions of this act, by joining minors in the bonds of matrimony without the consent of the father, mother or guardian, except as herein before expressly provided, shall be liable to a fine in any sum not exceeding one hundred dollars, or to imprisonment not exceeding six months, at the discretion of the court having jurisdiction.

Sec. 99. All marriages which are herein prohibited on account of consanguinity between the parties, or on account of either of them having a former husband or wife then living, shall be absolutely void in this Nation, without any judgment of divorce or other legal proceeding; *provided*, that the issue from such unlawful marriage shall nevertheless be legitimate; *provided, also*, that when a man having by a woman one or more children, shall afterwards intermarry with such woman, such child or children, if recognized by him, or proven to be his, shall thereby be legitimate.

Sec. 100. A divorce from the bonds of matrimony may be adjudged by the circuit courts of this Nation, on action brought in the district where the parties or one of them reside, on application by petition or complaint of the aggrieved party.

Sec. 101. Actions for divorce shall be conducted in the same manner as other actions in courts, and the court shall have power to enforce its judgments as in other cases; and when a judgment of divorce from the bonds of matrimony is granted in this Nation, by a court of competent authority, such judgment shall fully and completely dissolve the marriage contract as to both parties.

Sec. 102. A divorce from the bonds of matrimony may be adjudged for either of the following causes, viz: for adultery, for imprisonment for three years or more, for willful desertion and neglect for the term of one year next preceding the filing of the complaint or petition; for extreme cruelty, whether by violence or other means, and for habitual drunkenness for one year immediately preceding the filing of the complaint or petition.

Sec. 103. The court in granting a divorce shall, in all cases where there are minor children of the parties divorced, make such order concerning the care, custody and maintenance of such children as it shall deem proper and just, having due regard to the age and sex of the same.

Sec. 104. When a judgment of divorce has been granted, and the parties shall afterwards intermarry, the court, upon their joint application, and upon satisfactory proof of such marriage, may revoke all judgments or orders of divorce, alimony, and subsistance, which will not affect the rights of third persons.

ARTICLE XX.

LAWFUL FENCES.

Sec. 105. All fences four and a half feet high, and constructed of posts, placed not exceeding eight feet apart, and securely set two feet in the ground, and properly boarded with sawed plank or split railing, and in good repair, shall be deemed sufficient and lawful fences.

Sec. 106. All fences constructed of pickets, securely set two feet deep in the ground, and five feet high above the surface of the ground, and in good repair, shall be deemed sufficient and lawful fences.

Sec. 107. All worm fences constructed of rails, and of an average height of four and a half feet, after setting, and securely staked and ridered, and in good repair, shall be deemed sufficient and lawful fences.

Sec. 108. Fences constructed of ordinary rails confined between two posts, securely set two feet in the ground, and firmly tied at the top, or of rails fitted by mortice into posts thus set, and four feet and a half high, and in good repair, shall be deemed sufficient and lawful fences.

Sec. 109. All pailing fences, constructed of posts, railings and pailings, the posts being set securely two feet in the ground, with two or more slats or railing to the panel, with pickets four inches broad and three quarters of an inch thick, or two and a half inches broad and one inch thick, of sawed or split material, and securely nailed with not less than one eight penny nail to each bearing of every upright board or picket, and not less than five feet high, and in good repair, shall be deemed sufficient and lawful fences.

Sec. 110. All fences constructed of stone, laid with or without mortar, perpendicular on the exterior side, with three and a half feet base and eighteen inches at the top, properly capped, and not less than four and a half feet high, and in good repair, shall be deemed sufficient and lawful fences.

Sec. 111. All ditches designed for fences, with perpendicular interior walls, four feet deep and four feet wide, the excavated earth, gravel or rock, being uniformly distributed along the inner bank of the ditch, and in good repair; and all live hedges not less than three years old, of sufficient growth and compactness, in good repair, and being equal to any one of the fences aforesaid, shall be deemed sufficient and lawful fences; *provided*, that the cracks or spaces in fences enclosing yards and vegetable gardens, and designed to exclude small animals, shall not exceed an average of two inches to a heighth of two feet from the ground, four inches for the next foot, and six inches for the residue to the desired height; nor shall such spaces or cracks exceed an average of four inches for the first two and one half feet from the ground, nor six inches

thence to the fifth foot, in fences enclosing other grounds, and designed for the exclusion of stock capable of doing damage to field crops.

ARTICLE XXI.

PROHIBITING THE SALE, AND RESTRICTING THE LEASE OF REAL ESTATE.

Sec. 112. It shall not be lawful for any citizen of the Cherokee Nation to sell any farm, or other improvement in said Nation, to any person other than a "*bona fide*" citizen thereof; nor shall it be lawful to rent any farm or other improvement in this Nation, to any person other than a citizen of the Indian Territory; and every person who shall offend herein, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall suffer punishment by fine, in any sum not less than ten dollars nor exceeding five hundred dollars, or in default of payment, by imprisonment for any term not exceeding one year.

Sec. 113. The solicitor and sheriff prosecuting the case, and collecting the fine, shall be entitled to twenty-five per cent. each, of all sums so collected, and the residue thereof, or fifty per cent. of the whole amount collected, shall be paid into the national treasury, for the benefit of the general fund; *provided*, that this act shall not be so construed, as to prevent the renting of houses and small tracts of land for cultivation, to school teachers, officiating ministers, licensed traders and practising physicians, lawfully in the country, or to prevent the renting of houses to mechanics and other useful laborers who may be lawfully permitted to sojourn in the Nation; *provided, also*, that the provisions of the next preceding section, shall not be construed as granting license to such licensed traders, teachers and others, to engage in farming or gardening, stock or poultry raising, or keeping for profit, in lieu of

their ostensible business, under penalty of removal from the country as intruders, and confiscation of the property acquired and held in the Nation, while so intruding.

ARTICLE XXII.

GRIST MILLS.

Sec. 114. The owners or occupiers of all grist mills in this Nation, moved by water, shall be entitled to one-eighth part of all wheat, corn, or other grain ground and bolted, or ground and not bolted, and no more. Owners or occupiers of all grist mills in this Nation, moved by steam or wind, shall be entitled to one-sixth part of all wheat, corn, or other grain ground and bolted, or ground and not bolted, and no more; and owners or occupiers of any grist mill in this Nation, moved by horse or other animal power, shall be entitled to one fourth part of all wheat, corn, or other grain ground and bolted, or ground and not bolted, and no more; and any owner or occupier of a grist mill in this Nation, who shall exact or take more toll than is herein allowed, shall, in every such case, be liable to a fine in any sum, in the discretion of the court, not exceeding fifty dollars, and to the party injured, in five times the actual damages sustained by him; or, in default of payment, to imprisonment not exceeding six months.

Sec. 115. The miller, owner, or other person in charge of a mill, used and occupied as a grist mill, shall not be permitted to grind his own grain to the exclusion of other grists; but shall well and sufficiently grind, or grind and bolt the grain brought to mill for that purpose, in due time, and in the order in which it shall be received. He shall be accountable for the safe keeping of all grain received in such mill for the purpose of being ground therein, and shall deliver the same when ground, or ground and bolted, as the case may be, with bags, casks, or other vessel in which it was brought, when demanded; *provided, however*, that he shall not be accountable for any bag, cask, or other

vessel, or their contents, unless plainly marked with the owner's name. Nor shall he be accountable for any loss by fire, or robbery, or unavoidable accident, without the fault of such owner or occupant, his agents or servants.

Sec. 116. The pains and penalties prescribed for a breach of the provisions of section one of this act, shall also apply to any breach of the provisions of the next preceding section.

Sec. 117. Nothing contained in this act shall be so construed, as to compel owners or occupants of mills to grind grain, or grind and bolt in large quantities for the purposes of trade, to the exclusion of others; or from grinding, or grinding and bolting his own grain, at any time; *provided*, that, in so doing, he does not infringe upon the rights of others.

ARTICLE XXIII.

STRAY PROPERTY.

Sec. 118. It shall be the duty of each of the sheriffs of the several districts, to receive and advertise for public sale, to the highest bidder, all stray property that may be found, or reported to them, in their respective districts, such as horses, mules, asses, cows, hogs, sheep and goats, giving a description of color, brands, ear and flesh marks, age and sex; and such property shall be sold, for prompt payment, in cash, national warrants or certificates, at the regular terms of the circuit and district courts, and on the first day thereof, and not before the hour of ten in the morning.

Sec. 119. All stray property, before being sold, shall be advertised at least ninety days, by written advertisement in the English and Cherokee languages, posted at the court house in the district wherein such property is to be sold, and in like manner in the "Cherokee Advocate," in *nonpareil* type; and any person having property adver-

tised under the provisions of this act, shall have the right of reclaiming such property, by proving the same, on or before the day of sale, before the judge of the district court of the district wherein such property is posted; and such judge, if satisfied with the sufficiency of the proof, after recording the same, and making his decision thereon, shall issue an order directing the sheriff posting the property, to deliver it to the owner.

Sec. 120. If any person, having property advertised under the provisions of this act, shall fail to prove the same, before the sale of the same, he shall forfeit his right to such property, except as hereinafter provided; but any person who shall prove such property, in the manner hereinbefore provided for, within nine months after the sale of the same, shall be entitled to receive from the treasurer, on the certificate of the judge before whom the proof is made, the proceeds, in kind, of the sale of the same, deducting therefrom the sheriff's fees.

Sec. 121. Any person, who may take up stray property, shall, within ten days thereafter, be required to have the same posted; and any person failing to comply with this provision, shall be liable to a fine of not less than ten, nor exceeding twenty dollars.

Sec. 122. Any sheriff, not wishing to keep stray property in his possession, shall be authorized to place the same in the possession of some responsible person, who shall, for the expense of keeping such property, have the use of the same; but no further expense shall attach to keeping thereof; and any person taking up stray property, or having the same in his possession by permission of the sheriff, shall be required to take good care of the same; and if the property shall be injured, through the willfulness or negligence of such person, he shall be responsible in such an amount as will indemnify the person or party injured.

Sec. 123. Any person who shall sell, or dispose of, or willfully take any stray property, not his own, or shall willfully kill or maim any such property, either before or after such property is posted, shall be deemed guilty of the same offense as if the act was committed upon the property of a citizen, and shall, upon conviction, be punished accordingly.

Sec. 124. It shall be the duty of the several sheriffs to have, if possible, all property that may be posted by them, at the court house on the day of sale, and to place the purchasers thereof in possession of the same when sold, or within a reasonable time if required to do so. The sheriff may retain ten per cent., in kind, of all proceeds of sales of stray property, and be required to turn over the residue to the treasurer, at such times, as he may be by law required to make reports of such sale. He shall keep a registry of all property sold, showing dates of sales, to whom made, amount in kind received, and the kind of property sold; and report the same quarterly to the treasurer, as he may direct. He shall also furnish the judge of the district with copies of the advertisements of stray property within ten days after posting the same, and shall notify said judge of all sales made by him, to whom made, amount in kind received, and kind of property, within ten days after sale, and the judge shall file the same in his office.

Sec. 125. The clerk of the district shall be present at all sales of stray property, and shall make, and keep on record in his office, a register of all sales by the sheriffs, to whom made, amount in kind paid, date of sale, and kind of property sold, and make therefrom a quarterly report to the treasurer, as he may direct.

ARTICLE XXIV.

LICENSED TRADERS.

Sec. 126. *Whereas*, in the year one thousand eight hundred and thirty-four, the congress of the United States

enacted a law, known and styled the "Intercourse law," to regulate trade with the Indian tribes; and *whereas*, it is enacted in the 22d section of said law, "that if an Indian is party on one side and a white man on the other, the burden of proof shall rest on the white man;" and in the 23d section, "that it shall be lawful for the troops to be employed in the apprehension of any white man who may become a party to a suit where an Indian is concerned, and have him conveyed to the nearest civil authority of the territory, or judicial district in which the person may be found, to be proceeded against in due form of law." *Therefore*, from and after the passage of this act, if any licensed trader under the United States, or other person, not a citizen of this Nation, has, or may contract debts within the limits of the Nation, with a citizen thereof, it shall not be lawful for such person to recover such debts in any of the courts of the same; and all laws or parts of laws that may authorize the collection of such debts, except in cases expressly provided for in this code, are hereby repealed; *provided*, that whenever an adopted citizen of this Nation shall apply for, obtain, or accept of a license to trade in this Nation, from the United States government, no license or permit to trade shall be granted to such adopted citizen, by the authorities of this Nation. And the Cherokee Nation would hereby disclaim all responsibility or liability, in consequence of any loss or damage sustained by such licensed trader, under the government of the United States.

ARTICLE XXV.

INTRUDERS.

Sec. 127. Every person unlawfully residing or sojourning in the Cherokee Nation, agreeably to the 27th Article of the treaty of July 19th, A. D., 1866, with the United States, and in violation of the laws of this Nation, shall be and hereby is deemed to be an intruder. And it is hereby made the duty of the sheriffs of the several districts, when-

ever called upon for that purpose, to co-operate with the proper authorities of the United States in the removal of such intruders beyond the limits of this Nation; *provided*, that such sheriffs, while so engaged, shall act under the authority of the United States, and be compensated by the same.

Sec. 128. Solicitors shall furnish annually, by the close of the "fiscal year," to the Principal Chief, a complete and full list of all persons residing or being in their several districts, in violation of law, and the Principal Chief shall, as soon as may be, report the same to the proper authority for removal.

Sec. 129. Improvements made or held by intruders, at the time of their removal, or at the time when reported—if there is no adverse title held by a "*bona fide*" citizen of the Nation,—shall be sold to the highest bidder by the sheriff of the district in which located, after fifteen days notice in the "Cherokee Advocate," or by posting at three of the most public places in the district. Such sales to be for prompt payment in cash or national warrants, or certificates, and the proceeds, after deducting his fees of ten per cent. shall be paid by the sheriff into the general fund of the national treasury.

ARTICLE XXVI.

LIABILITY OF THE CHEROKEE NATION TO HER OWN CITIZENS.

Sec. 130. The Cherokee Nation shall be liable to all persons whatever, citizens of the Nation having claims at law or equity, against her, to the same extent as individual persons are liable to each other, and may be sued by any citizen having a cause of action, in the manner hereinafter provided; but no suit shall be maintained unless the claim has been demanded, and payment refused or waived.

Sec. 131. All suits against the Nation, shall be commenced in the circuit court of the district in which the

national capital is situated; but appeals may be taken to the supreme court in the same manner as in civil cases between individual litigants, and said circuit and supreme courts, shall have exclusive jurisdiction over all causes in which the Nation may be made a party defendant; *provided, however*, that said suits may, with the consent of the parties, originate in and be determined by the supreme court alone, independent of the circuit court. Suits against the Nation shall be instituted and conducted in the same manner as suits between individuals.

Sec. 132. Process in suits against the Nation, shall be served on the Principal Chief, in the mode prescribed by law for the service of process in other cases; and the Principal Chief shall, whenever such process against the Nation is served upon him, appear in person or by counsel, and represent the Nation. He shall require the solicitor general, and such other counsel as he may deem necessary, to appear in defense of the Nation.

Sec. 133. Judgments and decrees against the Nation, shall not be enforced in any other manner, except by an appropriation made by the National Council, on the petition of the person holding such judgment or decree, accompanied by a duly certified copy of such judgment or decree.

CHAPTER XIII

RULES FOR CONSTRUING THIS CODE.

ARTICLE I.

Sec. 1. All words and phrases used in this code, and the statutes of this Nation, shall be construed according to their common and ordinary acceptation and meaning; but technical words and phrases shall be construed according to their technical meaning, as established by the profession using them.

Sec. 2. Words used in the singular number only, either as descriptive of persons or things, shall extend to and embrace the plural number also; and in like manner, words used in the plural number, shall extend to and embrace the singular number, except where a contrary intention is expressed.

Sec. 3. The word "month" shall be understood to mean a calendar month, and the word "year" a calendar year, unless a contrary intention is expressed.

Sec. 4. The word "person" shall apply to artificial as well as natural persons.

Sec. 5. Words in the masculine gender shall embrace a female, as well as a male, unless a contrary intention is manifest.

Sec. 6. When process shall be required to be served, on notice given any number of days, the day of serving the process, or of giving the notice, shall be excluded, and the day of appearance included, and so in all other cases, where any number of days shall be prescribed, one day shall be excluded, and the other included. When the last day falls on Sunday, it shall be excluded, but in all other cases Sunday shall be reckoned in the computation of time.

CHAPTER XIV.

AN ACT RELATING TO ACTS INCONSISTENT WITH THE PROVISIONS OF THIS CODE.

Sec. 1. That all acts or parts of acts, of a general nature, heretofore enacted and in force, and inconsistent with the provisions of this code, shall be, and are hereby declared to be repealed from and after the date when this code shall go into effect; *provided*, that prosecutions for crime, committed in violation of any penal law in force at the time of the commission of such crime, may be instituted until such prosecutions shall be and become barred by operation of any limitation to the same, duly imposed and declared by law. And all such prosecutions, so instituted for violation of any penal law heretofore in force, and all civil suits which shall be instituted for the recovery of claims or demands arising under any repealed law, shall be tried and decided as required by the first section of the article under the head of the judiciary, that is, pursuant to the understanding, obligations and responsibilities lawfully binding the parties at the time, and in accordance with the laws under which the cases shall have respectively originated.

Sec. 2. All acts, or parts of acts, through and by virtue of which private rights have been vested or conferred upon individuals, now citizens of this Nation, and in the possession and enjoyment of such rights, shall be, and continue in force as heretofore since their enactment, to such extent, and to such time only, as such rights may attach to and vest in such persons, agreeably to the laws of this Nation, and the terms and provisions of the acts, or parts of acts, vesting such rights.

APPENDIX.

The laws of a general nature, not inconsistent with the Code, are here added, so as to embrace in this volume all of the existing statutory laws of the Nation.

APPENDIX.

AN ACT REGULATING SETTLEMENTS ON THE PUBLIC DOMAIN, AND IN REGARD TO IMPROVEMENTS.

Be it enacted by the National Council:

That no person shall be permitted to settle or erect any improvement within one-fourth of a mile of the house, field or other improvement of another citizen, without his, her, or their consent, under the penalty of forfeiting such improvement and labor, for the benefit of the original settler; *provided*, it may be lawful, however, where a settler has a field one-half mile or more from his residence, and where there may be a spring or running water, and timber, for another citizen to improve and settle one hundred yards from such field so situated.

Be it further enacted: That all improvements, which may be left unoccupied by any person or persons, citizens of this Nation, and such person or persons remove to another place, leaving no person or tenant on their former place, for the term of two years, such place or improvements shall be considered *abandoned*, and revert to the Nation as common property; and any person or persons whatever, citizens of this Nation, may take possession of any such improvement so left, which shall thenceforward be considered their lawful property.

Be it further enacted: That, should any person or persons having possession of and claiming an improvement, and another person, or other persons, claim the same, such last mentioned claimant or claimants are required to commence an action by law within twelve months after the person or persons in possession of the improvement in dispute take possession thereof, or otherwise their rights to such improvement is considered forfeited by this act.

Be it further enacted: That nothing in this act shall be so construed, as to impair the rights of orphans.

September 24, 1839.

AN ACT RELATING TO PUBLIC FERRIES.

Be it enacted by the National Council:

That any person desirous of keeping a public ferry, shall first be required to obtain a license for that purpose from the national treasurer, and for which he shall pay annually in advance, the following tax, to wit: For a ferry on the Arkansas, Canadian or Grand rivers, the sum of twenty-five dollars per annum; on the Illinois, Verdigris and "Neosho" rivers, the sum of ten dollars per annum. Any person so obtaining a license, shall be required to keep good boats and ferrymen, and cross all persons promptly during seasonable hours, (Sundays excepted,) when it can be done with safety, at rates heretofore fixed by law. No person shall be allowed to open a new ferry within less than half a mile of any ferry established agreeably to the provisions of this act.

Be it further enacted: That any person found guilty of a violation of the provisions of this act, shall be subject to a fine for every such offense, in a sum double the amount of the license established above, one half for the benefit of the informer, and the other for the treasury. All such fines shall be recoverable before the courts of the Nation.

October 31, 1849.

AN ACT ADMITTING TO THE RIGHT OF CITIZENSHIP CERTAIN CREEK INDIANS.

Whereas, Certain Creek Indians, with their families, emigrated from the east of the Mississippi river, in the several detachments of Cherokees that removed in 1838 and arrived in 1839; *and whereas*, the said Creek Indians, having been received by the Cherokees into their Nation east, under their customs and agreement then existing between them and the Creek Nation, and thereby becoming a part of the Cherokee people, and subject to the Cherokee

laws: therefore, in order to remove all doubts as to their right to live and enjoy the privileges and citizenship in the Cherokee Nation:

Be it enacted by the National Council:—That all the Creek Indians who emigrated to this country in the several detachments of Cherokees, as aforesaid, and also all those Creek Indians, together with their families, who were allowed the right of suffrage among the Western Cherokees, previous to the arrival of the Eastern Cherokees in 1839, be, and they are hereby recognized and admitted to the enjoyment of the rights and privileges of citizenship of this Nation.

Tahlequah, November 13, 1843.

Approved, JOHN ROSS.

AN ACT PROVIDING FOR A RESIDENT AGENT AT WASHINGTON CITY.

Be it enacted by the National Council:

That, in view of the still unsettled condition of our claims as a Nation upon the government of the United States, and for the better and more economical prosecution of the same before the said government, this Nation shall be represented by a special and resident agent in Washington City, who shall be appointed by the Principal Chief, by and with the consent of the National Committee, and whose term of service shall continue during two years, unless sooner recalled.

Be it further enacted: That said agent shall be fully commissioned and instructed by the Principal Chief in regard to his duties, which shall be to attend to the general interests of this Nation before the government of the United States, and all claims of this Nation and the citizens thereof, and to have the same paid over, when allowed, to the proper officer of this Nation.

Be it further enacted: That it shall be the duty of the said agent to make a full and accurate report of all his official acts and correspondence, at least quarterly, to the Principal Chief, which reports shall be laid before the annual sessions of the National Council.

Be it further enacted: That the salary of the above agent shall be two thousand dollars per annum, inclusive of all personal expenses.

Tahlequah, Nov. 4, 1853.

Approved,

JOHN ROSS.

AN ACT RESPECTING THE FURNISHING RAILROAD TIES, AND OTHER MATERIAL, TO THE MISSOURI, KANSAS AND TEXAS RAILROAD COMPANY.

Whereas, the Missouri, Kansas & Texas Railroad Company has applied, through its duly accredited agent, (Hon. N. S. Goss,) for the purchase of railroad ties, and other material, to be used by said company, for the purpose of building that portion of said railroad which may run within the limits of this Nation, and no other portion thereof, therefore:

Be it enacted by the National Council:

That the said railroad ties, and other material, be furnished from the public domain of the Cherokee Nation, to the said company, upon the following conditions, to wit:

The Principal Chief shall grant a written license to citizens of the Cherokee Nation only, for the purpose of furnishing said ties and material; said citizen, so licensed, before furnishing said ties and material, shall enter into a contract for that purpose with the proper authorities of said railroad company, to be approved by the Interior department at Washington, according to the terms of the bond of said railroad company, filed in the Interior depart-

ment, under date of August 10th, 1870, before the said contracts shall be considered as valid and binding. The Cherokee citizens so licensed and contracting, shall, before furnishing ties and material as aforesaid, file bonds with the National treasurer, to be approved by the Principal Chief, and made payable to him, for twice the amount of the tax due the Nation on said approved contract, and conditioned upon a faithful compliance with the provisions of this act by the said licensed and contracting citizens.

Be it further enacted: That persons furnishing ties and material, under the provisions of this act, are hereby required to pay to the sheriffs of their respective districts, on which said ties and material may be obtained, for the benefit of the national treasury, as follows:

For every tie and cross tie.....	5 cents.
For bridge and other railroad timber, whether hewed or sawed, 15 per centum of the actual cash value of the same, at the time and place of obtaining the same.	
For every cubic yard of stone used in first class stone work....	15 cents.
For every cubic yard used in second class stone work.....	10 cents.
For every cubic yard used in third class stone work.....	5 cents.

And it shall be the duty of said sheriffs to keep a correct account of all funds so received by them, and to make, on oath, a correct report of the same on the first Monday in May and October in each year, to the treasurer of the Nation, to whom, at the same time, the said sheriffs shall turn over all funds received by them under this act.

Be it further enacted: That no person furnishing ties and material as aforesaid, shall be permitted to intrude, or trespass, upon the improvements or rights of any of the citizens of this Nation, without the consent of such citizen; *provided*, that no regard be paid to any improvement that may be worth less than fifty dollars, unless said improvement be occupied by an actual settler; and *provided further*, that nothing herein shall be so construed as to impair the rights of orphan children.

Be it further enacted: That after the line of road of said company shall have been completed through the Cherokee Nation, and it shall become necessary from time to time to repair the same, or to repair the bridges, or to work upon the depots and other property of the same, it shall be lawful, in order to obtain the necessary material for that purpose, for the said company to enter into contracts with the citizens of the Cherokee Nation, who shall pay the charges on the material so furnished, respectively provided for in the second section of this act.

Be it further enacted: That the Principal Chief of the Cherokee Nation shall have the power, and he is hereby invested therewith, to appoint from time to time, as occasion may require, three (3) citizens of the Cherokee Nation, whose duty it shall be to examine into and determine the amount of any damages against said railroad company, in building and operating its road through said Nation, or any part thereof, which may be sustained by any citizen of said Nation, by reason of said road passing through his or her farm, or destroying or disturbing his or her improvements, or for any destruction of any property of any such citizen. Such a judgment to be sent to said Chief, and by him forwarded to the Secretary of the Interior of the United States for his approval; and such adjudgment of damages, so approved, to be collected and paid by the United States, or any proper authority thereof; and said commissioners shall be paid, for their actual service, at the rate of five dollars per day.

Tahlequah, December 10, 1870.

Concurred in, with the following amendment:

"That no citizen of the Cherokee Nation, or corporation of such citizens, shall be allowed to contract for more than ten thousand ties to any single railroad company, whose road may have the right to pass through said Nation, or any part thereof, and any party violating the provisions of

this article, shall forfeit to the Cherokee Nation, double the amount of his or their contract, to be recoverable before any court of this Nation, having jurisdiction over the same."

December 14th, 1870.

Amendment concurred in.

Approved:

LEWIS DOWNING.

AN ACT FOR THE PROTECTION OF THE PUBLIC DOMAIN.

Be it enacted by the National Council:

That any citizen, or company of citizens of this Nation, who may desire to dispose of sawed lumber to citizens of the United States, either in or outside of this Nation, shall, before doing so, obtain a license for that purpose from the treasurer of the Cherokee Nation, and shall file a bond before him, with good security, in the penal sum of five thousand dollars, conditioned upon a compliance with the requirements of this act, hereinafter expressed, to dispose of sawed lumber; and the sale of all other timber to such persons, and its conveyance beyond the limits of this Nation, is hereby expressly declared to be unlawful; and any person convicted thereof, shall be punished as hereinafter provided.

1st. Such person, or persons, so using or disposing of sawed lumber, shall report, in April and October in each year, on oath, the amount of funds received by them, by such disposition, and shall, at the same time, pay into the treasury fifteen per centum on the amounts reported.

2d. Any person, or persons, who may violate this act, shall, in addition to forfeiting the said bond for the benefit of the treasury of the Nation, be deemed guilty of a high

misdemeanor, and, on conviction thereof before the proper court of the district in which said offense may be committed, shall be fined not less than one hundred, nor exceeding five hundred dollars, at the discretion of the court.

3d. Such person, or persons, so disposing of lumber, shall be required to make quarterly reports to the sheriff of their respective districts, on oath, of all amounts received by them for all lumber disposed of; and it shall be the duty of the said sheriffs to report the said amounts to the treasurer of the Nation, on the 1st Monday in November in each year.

Be it further enacted: That it shall be the duty of the several solicitors of this Nation to prosecute all persons violating this act; and should said solicitor fail to prosecute any such offenders, he shall be subject to a fine for every such failure, for the benefit of the treasury of the Nation, in a sum of not less than fifty dollars, nor exceeding one hundred dollars, to be deducted from his salary.

Be it further enacted: That this act shall not be so construed, as to authorize any person to obtain or use timber within one-fourth of a mile of the occupied premises of any citizen of this Nation, without the consent of such citizen; nor shall it be so construed so as to deny the right of the United States to use timber for various purposes, as provided for by treaty stipulations between the Cherokee Nation and the United States; nor to authorize or allow any individual or company to hold or occupy, or be interested in more than one claim, in any pinery or other forest, at the same time, and in accordance with the laws of this Nation regulating settlements on the public domain.

Approved,

LEWIS DOWNING.

Tahlequah, C. N., December 17, 1869.

AN ACT IN RELATION TO THE PUBLIC DOMAIN.

Be it enacted by the National Council:

That at each and every station along the line of any railroad passing through the lands of the Cherokee Nation, there shall be reserved to the Cherokee Nation, one mile square, to include such station in such manner as may be deemed advisable by the commissioners hereafter authorized; and said tract shall be laid off into town lots, and sold at public sale to the highest bidder, who shall be a citizen of the Cherokee Nation, and who shall thereby acquire the same rights, and none other, than those of use and occupancy, in the same way, and to the same extent, as conferred by law upon purchasers of lots in the towns of Fort Gibson and Tahlequah: *provided*, that this act shall not be so construed as to interfere with any of the mineral resources of the public domain, or laws of the Cherokee Nation in relation thereto.

And be it further enacted: That the Principal Chief be, and he is hereby authorized to appoint three commissioners, whose duty it shall be to locate and survey said town sites, and sell the lots thereof, or such number of lots as may be deemed advisable, as hereinbefore specified, and report to the Principal Chief, of the locations, surveys, and sales of lots, receipts and expenditures, on the first day of October of each year.

And be it further enacted: That the sales, payments and conditions of title be the same as provided for by law in the sales of lots in the town of Fort Gibson.

And be it further enacted: That no claim to any place in the Cherokee Nation shall be valid under this act, or any other act regulating the settlement of the public domain, unless the person locating the same shall, within six months thereafter, make improvements thereon to the value of fifty dollars, and be in actual possession thereof, or by agent lawfully resident in the Cherokee Nation,

whether such place is to be used as a farm, residence, stock-ranche, or place of business; and if any place or improvement shall be abandoned, or left unoccupied for the period of one year, the same shall be deemed and held as part of the public domain; *provided*, nothing herein shall be so construed as to impair the rights of orphan children.

Approved,

LEWIS DOWNING.

Tahlequah, C. N., December 14, 1870.

AN ACT FOR THE SUPPORT AND EDUCATION OF ORPHAN CHILDREN.

Sec. 1. *Be it enacted by the National Council:* That there shall be established in this Nation, an asylum, for the support and education of orphan children belonging to the Cherokee Nation, and those of Indian descent belonging to other Indian tribes, upon the terms, and in the manner hereafter authorized and provided.

Sec. 2. The said asylum shall be called, "The Cherokee Orphan Asylum," and shall be under the management and control of a board of trustees, to consist of seven persons, to be appointed by the Principal Chief, by and with the consent of the senate of the Cherokee Nation, and who shall continue in office for the term of two years, and until their successors shall be appointed and qualified. The Principal Chief shall be *ex officio* one of said board [of] trustees, any five of whom may constitute a quorum for business. The said board of trustees shall, at their first meeting after appointment, choose from their own number, a president, treasurer and secretary.

Sec. 3. It shall be the duty of the president to preside at all meetings of the board, and to perform all other duties that may be required of him by any by-laws or rules that may be adopted by the board of trustees.

It shall be the duty of the treasurer to receive all moneys that may be provided for the use of said asylum, to receipt for the same, and to pay such moneys out, only on the order of the board of trustees, duly signed by the president and attested by the secretary.

It shall be the duty of the secretary to keep, in a suitable book, correct minutes of the proceedings of the board of trustees, together with a correct account of all moneys received and disbursed by the treasurer, which book shall at all times be subject to the inspection of any person interested.

Sec. 4. A majority of the board of trustees shall constitute a quorum, and shall have authority to transact business, and in the absence of any of the officers, may appoint one of their number to act *pro tempore*, in the place of such absent officer.

Sec. 5. The board of trustees shall have power to adopt such by-laws and rules for the government of the board and its officers, as they shall see proper, and shall hold [such] stated and special meetings as may be provided for in such by-laws or rules.

Sec. 6. The board of trustees shall have the power to select, within this Nation, a suitable location for said asylum, and to occupy and hold as much land, not exceeding two (2) miles square, as they may deem necessary for farming and mechanical purposes, including mills and other machinery—which selection shall be made in one year after the appointment of the first board of trustees. They shall, as soon as the necessary funds can be obtained, erect, on said lands, suitable buildings for the accommodation, maintenance and education of all such orphan children as may be placed in their care, and as soon thereafter, as the means at their disposal, and the welfare of the institution may require, shall open a farm in connection with said institution to aid in its support, and to train such orphan children in habits of industry.

Sec. 7. The orphan fund provided for in the 23d and 25th articles of the treaty between the United States and the Cherokee Nation, entered into, (July 19th, 1866,) and proclaimed August 11th, 1866, is hereby appropriated, and forever dedicated to the purposes of erecting and maintaining said asylum, and the necessary buildings, farm, etc., and the treasurer of the Nation shall, from time to time, and as fast as the same shall come into his hands, pay the same over to the treasurer of the board of trustees aforesaid, and shall take his receipt in duplicate therefor, one copy of which he shall immediately deliver to the secretary of said board, and the other he shall file in his office.

Sec. 8. Before entering upon the duties of his office, the treasurer of the board of trustees aforesaid, shall enter into a bond, with two or more securities, to be approved by the board, in the penal sum of fifteen thousand dollars ($15,000), conditioned that he will faithfully perform all the duties of his office, and will account for, and pay to his successor in office, all moneys remaining in his hands at the expiration of his term of office, together with all the books and papers pertaining thereto.

Sec. 9. The trustees hereinbefore provided for shall, before entering upon the duties of their respective offices, severally take, and subscribe an oath, that they will obey the constitution of this Nation, and will faithfully discharge all the duties of such offices to the best of their ability, which oath shall be filed in the office of the treasurer of the Cherokee Nation.

Sec. 10. Until suitable buildings can be erected for the purpose aforesaid, the board of trustees shall be authorized to provide, temporarily, for the maintenance and education of the orphan children of this Nation; and for that purpose may lease some suitable building, or may use the male seminary belonging to this Nation, until otherwise ordered by the council.

Sec. 11. *Be it further enacted:* That the said board of trustees, may admit to the privilege of said asylum, orphans of Indian descent, belonging to other tribes, whose support and maintenance shall be provided for out of funds belonging to or set apart for the benefit of such tribes by treaty with the United States, or otherwise.

Tahlequah, C. N., November 25, 1871.

Approved, LEWIS DOWNING.

AN ACT SUPPLEMENTARY TO, AND AMENDATORY TO AN ACT, ENTITLED "AN ACT FOR THE SUPPORT AND EDUCATION OF ORPHAN CHILDREN," APPROVED NOVEMBER 28, 1871.

Be it enacted by the National Council:

That "An Act for the support and education of Orphan children," approved Nov. 25th, 1871, be amended, and the same is hereby so amended as to provide that the board of trustees provided for by the 2d section of the said act, shall have the management and control of the Cherokee Orphan Asylum, subject to the control and general direction of the National Council. And that the said board of trustees, shall be required to report annually to the National Council, through the Principal Chief, the condition of the said orphan asylum, the state of the finances, number of inmates in the said asylum, their age, sex, and progress in education, with all the information proper to give a correct understanding of the state of said asylum, and its usefulness as an institution for the purposes expressed in said act.

Be it further enacted: That the orphan fund shall be dispensed as provided for by the 4th article, section 23d, of the constitution—by warrant from the Principal Chief, and in consequence of appropriations made by law,—as the same may be, from time to time required by the said board of trustees, on its requisition, signed by the president and

secretary of said board, and setting forth the estimate, or cause of expenditures. Which requisition shall be retained in the office of the executive, as a voucher, by the Principal Chief; and the Principal Chief is hereby authorized to draw such warrants on the national treasurer.

Be it further enacted: That no money appropriated for the support of orphans in the year 1870, including the present school session, ending on the last Friday of January, 1872, shall be subject to the requisition of the said board of trustees.

Be it further enacted: That the said board of trustees be allowed their actual expenses while actually engaged in the performance of their duties; to be paid on the certificate of the board, out of the orphan fund; and the Principal Chief is hereby authorized to draw a warrant for the same.

Be it further enacted: That all laws, or clauses of laws, that conflict with this act, are hereby repealed.

Tahlequah, C. N., November 29, 1871.

Approved: LEWIS DOWNING.

AN ACT AUTHORIZING THE BOARD OF TRUSTEES OF ORPHAN ASYLUM, TO SELECT A SUITABLE LOCATION, AND REPORT TO THE NEXT SESSION OF THE NATIONAL COUNCIL.

November 30, 1872.

To the National Council:

Your committee, to whom was referred the subject of locating the "Cherokee Orphan Asylum," for the want of sufficient time to thoroughly investigate the matter, would respectfully recommend that the subject be referred back to the board of trustees, with instructions that they make a thorough examination of the Lewis Ross, Doctor Ross,

and such other places, as they may deem eligible. And report to the next session of the National Council, the terms on which they can be procured, with estimates of building &c., &c., whereby the National Council can clearly comprehend its duty in permanently locating the orphan asylum.

(Signed)

WILLIAM WILSON,
Chairman.

Be it enacted by the National Council:

That the recommendation in the above report is approved of by the senate, and the board of trustees are authorized and instructed to proceed accordingly.

Tahlequah, C. N., December 2, 1872.

CHARLES THOMPSON,
President of Senate.

Concurred in:

JOHN R. DUVAL,
Speaker of Council.

Approved December 4, 1872.

JAMES VANN,
Assistant and Acting Principal Chief.

AN ACT AUTHORIZING THE LOCATING PERMANENTLY OF THE ORPHAN ASYLUM, AND THE HOME FOR THE INSANE, DEAF, DUMB AND BLIND OF THE CHEROKEE NATION, AND FOR OTHER PURPOSES.

Be it enacted by the National Council:

That the national treasurer and the superintendent of public schools, together with the board of trustees of the orphan asylum, be and they are hereby authorized permanently to locate the said orphan asylum, and also the home for the insane, deaf, dumb and blind persons of the Nation provided for by the act approved October 31, 1872, and that they adopt such measures as may be necessary for the

early establishment of said institutions, as is provided for by law; and the sum of twenty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of the orphan fund, provided for in said act of October 31, 1872, for the establishment of said orphan asylum; and that the sum of twenty thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of the funds provided for by the said act of October 31, 1872, for the establishment of said home for the blind, deaf, dumb, &c., and the Principal Chief is authorized to draw warrants, in whole or in part, as necessity may require from time to time for the same.

Be it further enacted: That the said treasurer, superintendent of public schools, and board of trustees of the orphan asylum, be and they are hereby required to report the result of their labors, as required by this act, to the next session of the National Council, during its first week.

Approved November 29, 1873.

WILL. P. ROSS.

AN ACT PROVIDING FOR A REVISION OF THE LAWS, ETC.

WHEREAS, in order to meet the demands of a progressive people, and the many and rapid changes occurring among them, it has become necessary that many of the existing laws of the Cherokee Nation be amended, or repealed, and new ones enacted: Now, therefore,

Be it enacted by the National Council:

That the Principal Chief be and he is hereby authorized to appoint a committee of three, whose duty shall be to revise, amend and codify existing laws, and prepare such other new laws as the advanced condition of the Cherokee people demands. It shall be the duty of said committee

to embody all acts pertaining to any one subject in one act, omit all laws that have become inoperative, or been repealed, or are now inapplicable to existing affairs. They shall thoroughly classify the acts, and prepare an index to the same, and present the whole code to the Principal Chief, for his inspection, by the first day of May, 1874, to be by him presented, with his recommendations, to the National Council, for their action, at the annual session in 1874.

Be it further enacted: That the committee shall each receive a compensation of four dollars ($4.00) per day out of the general fund, while actually engaged, payable in two installments, and the Principal Chief is hereby authorized to draw warrants accordingly, and report at the next annual session of the National Council.

November 19, 1873.

Approved:

WILL. P. ROSS.

AN ACT AUTHORIZING AN APPLICATION TO BE MADE TO THE GOVERNMENT OF THE UNITED STATES FOR THE PAYMENT TO THE TREASURER OF THE NATION, FOR THE SEVERAL SUMS OF MONEY DUE THE CHEROKEE NATION, THEREIN NAMED.

Be it enacted by the National Council:

That the Principal Chief be and he is hereby authorized and requested to draw requisitions on the treasury department, or the department of the interior, as the case may be, for the payment to the treasurer of the Cherokee Nation, to-wit:

For the sum of seventy-five thousand dollars for the purpose of founding a literary institution for the education of indigent persons of the Cherokee Nation, out of the proceeds of the lands ceded to the Great and Little Osages, under the act of Congress, approved June 5th, 1872, as authorized by an act of the National Council, approved

October 30th, 1872, and authorized by the act of Congress, approved February 14th, 1873, entitled "An Act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30th, 1874, and for other purposes."—And the further sum of twenty thousand dollars, out of the same fund and in accordance with the provisions and authority of the before cited acts of the National Council, approved October 30th, 1872, and of Congress, approved February 14th, 1873, for the benefit of the institute for the orphans.—And also for the further sum of twenty-five thousand dollars for the establishment of an asylum for the insane, deaf, dumb and the blind, indigent persons of the Cherokee Nation, out of the proceeds of the sales of "the Strip in Kansas," as provided for by an act of the National Council, approved 31st of October, 1872, and authorized by an act of Congress approved February 14th, 1873.

November 22, 1873.

Approved:

WILL. P. ROSS.

AN ACT AUTHORIZING THE TRANSFER, OR SALE, OF CHEROKEE LANDS, WEST OF THE ARKANSAS RIVER, AND THE MANNER OF DISPOSING OF THE PROCEEDS.

Be it enacted by the National Council:

That the delegation of the Cherokee Nation to the city of Washington be and are hereby authorized to negotiate with the government of the United States for the sale, or transfer, (in such manner not inconsistent with national obligations, and as may be most conducive to the interests of the Cherokee people) of all of the Cherokee lands lying west of the Arkansas river, and south of Kansas, and commonly known as the Cherokee Outlet.

Be it further enacted: That the proceeds of the sale, or transfer of the lands aforesaid, be paid, with the consent of the United States, in whole or in part, to the Cherokee people "*per capita.*"

And the Principal Chief is hereby authorized to order an enumeration, or census, of the people whenever by him deemed expedient; *provided*, that the salt plains, with their immunities, profits and privileges, undivided, be reserved to the Cherokee people.

Approved, November 28, 1873.

WILL. P. ROSS.

AN ACT IN RELATION TO THE MALE AND FEMALE SEMINARIES, AND ESTABLISHING PRIMARY DEPARTMENTS THEREIN FOR THE EDUCATION OF INDIGENT CHILDREN.

1. *Be it enacted by the National Council:*

That, for the purpose of carrying into effect an act of the National Council, approved October 31st, 1872, and an act of the Congress of the United States, approved February 14th, 1873, authorizing the expenditure of the sum of seventy-five thousand dollars for the purpose of founding "a literary institution for the education of indigent persons of said Nation," there be and is hereby established in each of the seminaries, a primary department, for the education of such children as are destitute of the means of support.

2. *Be it further enacted:* That there be created a board of trustees for said institutions to consist of five members, to be nominated by the Principal Chief, and confirmed by the senate, who, with the Principal Chief as "*ex officio*" president of said board, shall be authorized to mature and determine upon the most convenient plan of enlarging the male and female seminary buildings, so as to accommodate at least two hundred additional pupils

each; to receive proposals and contract for the erection of the same; and for this purpose there is hereby appropriated out of the fund, so set apart, the sum of forty thousand dollars—twenty thousand for the use of each—or so much thereof as may be necessary; and the further sum of ten thousand dollars, out of the same fund, or so much thereof as may be necessary, to be expended in furnishing the same with the necessary fixtures and furniture.

3. *Be it further enacted:* That, whenever repairs or enlargement of either of said seminary buildings will admit of the reception of pupils, the said board of trustees are authorized and instructed to receive, into the primary department of the same, indigent children, not to exceed in number fifty for the first year, fifty more for the second year, fifty more for the third year, and fifty more for the fourth year, so as to make the full complement of the number of students, in said primary department, two hundred; and at each succeeding year after the fourth alluded to, the said board of trustees shall dismiss the first fifty students received, and, in place of them, receive fifty more students; and thus continue from year to year, so as to retain the complement of 200 students in said primary department. Said board will also be authorized to furnish text-books, to employ teachers, to make all the necessary arrangements for the boarding and clothing of such pupils, to prescribe such rules and regulations for the government, and management, of said institutions as in their judgment may be necessary to successfully operate the same, and be required to report annually to the National Council.

4. *Be it further enacted:* That the board of directors be authorized to open the male seminary to advanced pupils whenever the orphan asylum is permanently located, upon the same terms as now provided for by law for admission into the female seminary, and so much of the act of the National Council, approved December 4th,

1871, as places the female seminary under the care of the executive council as a temporary board of directors, be and the same is hereby repealed, and the same is placed in the care of the board created by this act.

5. *Be it further enacted:* That the sum of five thousand dollars be and the same is hereby appropriated out of the school fund not otherwise appropriated, or so much thereof as may be necessary, to meet the expense of boarding, clothing and teaching the pupils provided for in section third of this act; and the Principal Chief is hereby authorized to draw warrants for the sums herein before named.

November 24th, 1873.

Approved, November 28, 1873.

WILL. P. ROSS.

AN ACT TO REMUNERATE SETTLERS WEST OF NINETY-SIX, WHO SETTLED PREVIOUS TO 1866.

Be it enacted by the National Council:

That the Principal Chief be and he is hereby authorized and instructed to appoint three commissioners, to appraise the improvements of Cherokee citizens situated west of 96° (west longitude), made previous to July 19th, 1866, which commissioners shall be sworn to make a correct valuation of said improvements and claims according to the best of their judgment, and report the same to the next regular session of the National Council.

Be it further enacted: That said commissioners shall receive four dollars per day while in actual service.

November 24, 1873.

Approved:

WILL. P. ROSS.

AN ACT TO BUILD A JAIL.

Be it enacted by the National Council:

That the Principal Chief be and he is hereby authorized to appoint three persons to act as commissioners for the purpose of locating and building, as soon as possible, a national prison, for the safe-keeping and punishment of persons charged with criminal offenses. The main walls of said building shall be of stone, the partitions, roofing and other portions of such materials as the commissioners may deem best. The plan and specifications shall be clearly defined, and agreed upon by the commissioners and contractor before commencing work.

Be it further enacted: That said prison shall be completed and ready for use by the first day of November, 1874. That the sum of six thousand dollars ($6000.00), or so much thereof as may be necessary, be set apart for that purpose out of the proceeds of the sales of lands in the southern part of Kansas, commonly known as the "Cherokee Strip," and the Principal Chief is hereby authorized to draw warrants as the work progresses to completion, and report at the next annual session of the National Council.

November 24, 1873.

Approved:

WILL. P. ROSS.

AN ACT IN RELATION TO PERSONS WHO HAVE BEEN ADMITTED TO CITIZENSHIP BY SPECIAL ACTS, ETC.

Be it enacted by the National Council:

That all those persons, who have, by special act or otherwise, been re-admitted to the rights and privileges of Cherokee citizenship, and who shall fail to return to the Nation within six months from the date thereof, and

thereafter identify themselves with the people of the Cherokee Nation, by locating permanently, shall be barred such right of citizenship, all provisions to the contrary notwithstanding.

Be it further enacted: That the Principal Chief cause this Act to be published in the *Cherokee Advocate* for six months from date of passage, for the information of those concerned.

Approved, November 28th, 1873.

WILL. P. ROSS.

ACT DECLARING THE CHEROKEE NATION NOT LIABLE FOR LOSSES ALLEGED TO HAVE BEEN SUSTAINED BY THE OSAGE NATION.

Be it enacted by the National Council:

That the Cherokee Nation having had no agency in locating the Osage tribe of Indians east of the meridian of ninety-six degrees, as now established, are not in law or equity responsible, pecuniarily or otherwise, for losses alleged to have been sustained by said Osage tribe, in consequence of their temporary unlawful occupancy of Cherokee lands east of ninety-six, and in consequence of their subsequent removal to lands lying west of said line of ninety-six, and therefore the Cherokee Nation would most respectfully, but firmly, decline to entertain the proposition of the United States to the following effect, to-wit: "That the Cherokee Nation re-imburse the Osage Nation "for all losses sustained in consequence of their temporary "occupancy of lands lying east of the ninety-six meridian, "and their subsequent removal west of said line. And "that the Osage Nation re-imburse the Cherokee Nation "for all losses of Cherokee citizens west of ninety-six in "consequence of the cession of said country to the "Osages."

Be it further enacted: That improvements made and abandoned by the Osage Nation, or by any member of said tribe, east of ninety-six, upon Cherokee lands, are in law, and of right, the property of the Cherokee Nation.

Be it further enacted: That the delegation authorized by the National Council to visit Washington during the coming session of the Congress of the United States, be and they are hereby instructed to take such action as they shall deem expedient, for the purpose of vindicating the Cherokee Nation against all responsibility or liability for any losses claimed to have been sustained by the Osage Nation, or any member thereof, in consequence of their removal from Cherokee lands, lying east of the ninety-sixth meridian, to lands ceded to them by the Cherokees, lying west of said line.

Be it further enacted: That the National Council is of the opinion, that the amount of damage done by the Osage Nation, in the destruction of timber and live stock, east of ninety-six, far exceeds all losses alleged to have been sustained by the Osages, and that the government of the United States ought in equity indemnify the Cherokee Nation for such losses.

November 30, 1874.

Concurred in, with the following amendment: That the words "and subject to the disposal of the same," in the second section, and the words "and likewise indemnify the Osage Nation for losses sustained by them, in consequence of the unlawful occupancy of Cherokee lands, and subsequent removal therefrom," in the last section, be and the same are hereby stricken out.

December 1, 1874.

Approved, December 2, 1874.

WILL. P. ROSS.

AN ACT AUTHORIZING A COMMITTEE TO CONFER WITH THE UNITED STATES INDIAN COMMISSIONERS.

WHEREAS, The United States Indian Commissioners, having, by telegram, invited the Principal Chief of the Cherokee Nation to attend a consultation of said commissioners, in the city of St. Louis, Mo., on the seventh (7) day of December, 1874, and also having invited a conference with representatives from this Nation, at Muskogee, Creek Nation, on the 10th inst. (December), therefore,

Be it enacted by the National Council:

That the Principal Chief be, and he is hereby authorized to appoint ten prominent citizens of the Nation, who, with himself, shall constitute a committee, for the purpose of meeting and conferring with the United States Indian Commissioners, at Muskogee, Creek Nation, on the 10th inst., and that the said Principal Chief be further authorized, if practicable, to meet said commissioners in St. Louis, on the 7th inst., and he is hereby authorized to draw from the treasury, such sum as shall be necessary for defraying expenses, and report the same to the next regular session of the National Council.

December 2, 1874.

Approved:

WILL. P. ROSS.

COMPACT BETWEEN

—THE—

SEVERAL TRIBES OF INDIANS.

WHEREAS, The removal of the Indian tribes, from the homes of their fathers, east of the Mississippi, has there extinguished our ancient council fires, and changed our position in regard to each other; and,

WHEREAS, By the solemn pledge of treaties, we are assured, by the government of the United States, that the lands we now possess, shall be the undisturbed home of ourselves and our posterity forever; therefore,

We, the authorized representatives of the several Nations, parties hereunto, assembled around the great council fire, kindled in the West, at Tahlequah, in order to preserve the relations between our several communities, to secure to all their respective rights, and to promote the general welfare, do enter into the following compact:

Sec. 1. Peace and friendship, shall forever be maintained between the Nations, parties to this compact, and between their respective citizens.

Sec. 2. Revenge shall not be cherished, nor retaliation practiced, for offenses committed by individuals.

Sec. 3. To provide for the improvement of our people in agriculture, manufactures, and other domestic arts, adapted to promote the comfort and happiness of our women and children, a fixed and permanent location on our lands, is an indispensable condition. In order, therefore, to secure these important objects, to prevent any future removal, and to transmit to our posterity, an unimpaired title to the lands guaranteed to our respective

Nations, by the United States, we hereby solemnly pledge ourselves to each other, that no Nation, party to this compact, shall, without the consent of all the other parties, cede, or in any manner alienate, to the United States, any part of their present territory.

Sec. 4. If a citizen of one Nation, commits willful murder, or other crime, within the limits of another Nation, party hereto, he shall be subject to the same treatment as if he were a citizen of that Nation.

In cases of property stolen, or taken by force or fraud, the property, if found, shall be restored to the owner; but if not found, the convicted person shall pay the full value thereof.

Sec. 5. If a citizen of any Nation, party to this compact, shall commit murder or other crime, and flee from justice, into the territory of any other Nation, party hereto, such criminal shall, on demand of the Principal Chief of the Nation from which he fled (accompanied with reasonable proof of his guilt), be delivered up to the authorities of the Nation having jurisdiction of the crime.

Sec. 6. We hereby further agree, that if any one of our respective citizens shall commit murder, or other crime, upon the person of any other citizen, in any place beyond the limits of our several territories, the person so offending, shall be subject to the same treatment, as if the offense had been committed within the limits of his own Nation.

Sec. 7. Any citizen of one Nation, may be admitted to citizenship in any other Nation, party hereto, by consent of the proper authorities of such Nation.

Sec. 8. The use of ardent spirits, being a fruitful source of crime and misfortune, we recommend its suppression within our respective limits, and agree that no citizen of one Nation, shall introduce it into the territory of any other Nation, party to this compact.

Done in General Council, around the *Great Council Fire*, at Tahlequah, Cherokee Nation, this the third day of July, 1843.

REPRESENTATIVES OF THE CHEROKEES.

HAIR CONRAD, his X mark.
SAMUEL DOWNING, his X mark.
TURTLE FIELDS, his X mark.
STOP, his X mark, THOMAS FOREMAN.
J. VANN.
ARCHIBALD CAMPBEL, his X mark.
OLD FIELD, his X mark.
MICHAEL WATERS.
JOHN LOONEY, his X mark.
GEORGE LOWREY.
TOBACCO WILL, his X mark.
THOMAS WOODWARD, his X mark.
DUTCH, his X mark.
CHARLES COODEY.

REPRESENTATIVES OF THE CREEKS.

TUS-TA-NUG-GEE MATHLA, his X mark.
IN-THER-NIS HARJO, his X mark.
HO-LER-TER MICCO, his X mark.
UFALAR HARJO, his X mark.
CHILLY McINTOSH.
OAK-CEEN HARJO, his X mark.
HO-TUL-CA HARJO, his X mark.

REPRESENTATIVES OF THE OSAGES.

ALEXANDER CHOUTEAU, Osage Int.
SHIN-KA-WA-SAH, or BELBAZO, his X mark.
BLACK DOG, his X mark.
GRON-SAN-TAH, his X mark.
GRA-TAM-E-SAH, his X mark.

BE IT KNOWN, That the National Council of the Cherokee Nation, in annual Council convened, have this day approved and confirmed the within articles of a compact, entered into the day and date therein named, by the authorized representatives of the Nations, parties thereunto.

Done in National Council, at Tahlequah, Cherokee Nation, this second day of November, A. D. one thousand eight hundred and forty-three.

CHARLES COODEY,
President National Committee.

JAMES M. PAYNE,
Speaker National Council.

APPROVED:

JNO. ROSS.

ARTICLES OF AGREEMENT

WITH THE

DELAWARES,

Made this 8th day of April, A. D. 1867, between the Cherokee Nation, represented by William P. Ross, Principal Chief, Riley Keys, and Jessie Busheyhead, delegates, duly authorized, parties of the first part, and the Delaware tribe of Indians, represented by John Connor, Principal Chief, Charles Journeycake, Assistant Chief, Isaac Journeycake, and John Sarcoxie, delegates for and on behalf of said Delaware tribe, duly authorized, witnesseth:

WHEREAS, by the 15th article of a certain treaty between the United States and the Cherokee Nation, ratified August 11, 1866, certain terms were provided, under which friendly Indians might be settled upon unoccupied lands in the Cherokee country, east of the line of 96° of west longitude, the price to be paid for such lands to be agreed on by the Indians to be thus located and the Cherokee Nation, subject to the approval of the President of the United States; and, WHEREAS, by a treaty between the United States and the Delaware tribe of Indians, ratified August 10, 1866, the removal of the said Delawares to the Indian country, south of Kansas, was provided for, and in the 4th article whereof an agreement was made by the United States to sell to the Delawares a tract of land, being part of a tract the cession of which by the Cherokees to the United States was then contemplated, and, WHEREAS, no such cession of land was made by the Cherokees to the United States, but, in lieu thereof, terms were provided as hereinbefore mentioned, under which friendly Indians might be settled upon their lands; and, WHEREAS, a full and free conference has been held between the representatives of the Cherokees and the Delawares, in view of the treaties herein referred to, looking to a location of the Delawares upon the Cherokee lands, and their consolida-

tion with said Cherokee Nation: NOW, THEREFORE, it is agreed between the parties hereto, subject to the approval of the President of the United States, as follows:

The Cherokees, parties of the first part, for and in consideration of certain payments, and the fulfillment of certain conditions hereinafter mentioned, agree to sell to the Delawares, for their occupancy, a quantity of land east of the line of the 96° west longitude, in the aggregate equal to 160 acres of land for each individual of the Delaware tribe who has been enrolled upon a certain register made February 18, 1867, by the Delaware agent, and on file in the office of Indian affairs, being the list of the Delawares who elect to remove to the "Indian country," to which list may be added, only with the consent of the Delaware Council, the names of such other Delawares as may, within one month after the signing of this agreement, desire to be added thereto; and the selections of the lands to be purchased by the Delawares, may be made by said Delawares in any part of the Cherokee reservation east of said line of 96°, not already selected and in possession of other parties; and in case the Cherokee lands shall hereafter be allotted among the members of said Nation, it is agreed that the aggregate amount of land herein provided for the Delawares, to include their improvements according to the legal subdivisions, when surveys are made (that is to say, 160 acres for each individual), shall be guarranteed to each Delaware incorporated by these articles into the Cherokee Nation; nor shall the continued ownership and occupancy of said land by any Delaware so registered be interfered with in any manner whatever without his consent, but shall be subject to the same conditions and restrictions as are by the laws of the Cherokee Nation imposed upon the native citizens thereof; *provided*, that nothing herein shall confer the right to alienate, convey, or dispose of any such lands, except in accordance with the constitution and laws of said Cherokee Nation.

And the said Delawares, parties of the second part, agree that there shall be paid to the said Cherokees, from

the Delaware funds, now held or hereafter received by the United States, a sum of money, equal to one dollar per acre, for the whole amount of 160 acres of land, for every individual Delaware who has already been registered upon the aforesaid list, made February 18, 1867, with the additions thereto, heretofore provided for. And the Secretary of the Interior is authorized and requested to sell any United States stocks belonging to the Delawares, to procure funds necessary to pay for said lands; but, in case he shall not feel authorized, under existing treaties, to sell such bonds belonging to the Delawares, it is agreed that he may transfer such United States bonds to the Cherokee Nation, at their market value, at the date of such transfer. And the said Delawares further agree, that there shall be paid, from their funds, now or hereafter to come into possession of the United States, a sum of money, which shall sustain the same proportion to the existing Cherokee National fund, that the number of Delawares registered as above mentioned, and removing to the Indian country, sustains to the whole number of Cherokees residing in the Cherokee Nation. And, for the purpose of ascertaining such relative numbers, the registers of the Delawares herein referred to, with such additions as may be made within one month from the signing of this agreement, shall be the basis of calculation as to the Delawares; and an accurate census of the Cherokees, residing in the Cherokee Nation, shall be taken, under the laws of that Nation, within four months, and properly certified copies thereof filed in the office of Indian Affairs, which shall be the basis of calculation as to the Cherokees. And, that there may be no doubt hereafter, as to the amount to be contributed to the Cherokee National fund by the Delawares, it is hereby agreed, by the parties hereto; that the whole amount of the invested funds of the Cherokees, after deducting all just claims thereon, is $678,000. And the Delawares further agree, that in calculating the total amount of said National fund, there shall be added to the said sum of $678,000, the sum of $1,000,000, being the estimated value

of the Cherokee neutral lands in Kansas, thus making the whole Cherokee National fund $1,678,000, and this last mentioned sum shall be taken as the basis for calculating the amount which the Delawares are to pay into the common fund; *provided*, that, as the $1,678,000 of funds now on hand, belonging to the Cherokees, is chiefly composed of stocks of different values, the Secretary of the Interior may transfer, from the Delawares to the Cherokees, a proper proportion of the stocks now owned by the Delawares, of like grade and value, which transfer shall be in part of the *pro rata* contribution herein provided for by the Delawares to the funds of the Cherokee Nation; but the balance of the *pro rata* contribution by the Delawares to said fund, shall be in cash or United States bonds, at their market value. All cash, and all proceeds of stocks, whenever the same may fall due or be sold, received by the Cherokees from the Delawares under this agreement, shall be invested and applied in accordance with the 23d article of the treaty with the Cherokees, of August 11th, 1866.

On the fulfillment by the Delawares of the foregoing stipulations, all the members of the tribe, registered as above provided, shall become members of the Cherokee Nation, with the same rights and immunities, and the same participation (and no other,) in the national funds, as native Cherokees, save as hereinbefore provided. And the children hereafter born of such Delawares so incorporated into the Cherokee Nation, shall in all respects be regarded as native Cherokees.

WM. P. ROSS, Principal Chief,
RILEY KEYES,
Cherokee Delegation.

JOHN [his X mark.] CONNOR, Principal Chief.
CHARLES JOURNEYCAKE.
ISAAC JOURNEYCAKE.
JOHN [his X mark.] SARCOXIE.
Delaware Delegation.

Executed and delivered in our presence by the above named delegates of the Cherokee and Delaware Nations, at the city of Washington, in the District of Columbia, the day and year first above written.

JOHN G. PRATT.
WM. A. PHILLIPS.
EDWARD S. MENAGUS.

Ratified by the National Committee, June 15th, 1867.

SMITH CHRISTIE,
President Nat. Committee.

JNO. YOUNG,
Speaker of Council.

RESOLUTION IN FURTHERANCE OF THE TREATY WITH THE DELAWARES.

Resolved, by the National Council, That the Principal Chief be and he is hereby authorized to appoint some suitable person or persons to transcribe the Cherokee census rolls, and forward copies of them to the Secretary of the Interior at as early a day as it can be done. Also, to call on the Secretary of the Interior for a copy of the Delaware census roll.

Tahlequah, C. N., June 17th, 1867.

Approved: WM. P. ROSS.

AGREEMENT BETWEEN SHAWNEES AND CHEROKEES, CONCLUDED JUNE 7TH, 1869, APPROVED BY THE PRESIDENT JUNE 9TH, 1869.

ARTICLES OF AGREEMENT, made and entered into at Washington, D. C., this seventh day of June, A. D. 1869, by and between H. D. Reese and William P. Adair, duly authorized delegates representing the Cherokee Nation of Indians, having been duly appointed by the National Council of said Cherokees, parties of the first part, and

Graham Rogers and Charles Tucker, duly authorized delegates representing the Shawnee tribe of Indians, parties of the second part, *witnesseth:*

WHEREAS, it is provided by the fifteenth article of the treaty between the United States and the Cherokee Indians, concluded July 19, 1866, that the United States may settle any civilized Indians, friendly with the Cherokees and adjacent tribes, within the Cherokee country, on unoccupied lands east of 96°, on such terms as may be agreed upon by any such tribe and the Cherokees, subject to the approval of the President of the United States, which shall be consistent with certain provisions specified in said article; and,

WHEREAS, the Shawnee tribe of Indians are civilized and friendly with the Cherokees and adjacent tribes, and desire to settle within the Cherokee country on unoccupied lands east of 96°:

IT IS THEREFORE AGREED, by the parties hereto, that such settlement may be made upon the following terms and conditions, viz:

That the sum of five thousand dollars belonging to the Shawnee tribe of Indians, and arising under the provisions of treaties between the United States and said Shawnee Indians, as follows, viz:

For permanent annuity for educational purposes, per fourth article treaty, 3d August, 1795, and third article, 10th of May, 1854, one thousand dollars;

For interest, at five per centum, on forty thousand dollars for educational purposes, per third article treaty, 10th May, 1854, two thousand dollars;

For permanent annuity, in specie, for educational purposes, per fourth article treaty, 29th September, 1817, and third article, 10th May, 1854, two thousand dollars shall

be paid annually to the Cherokee Nation of said Indians, and that the annuities and interest, as recited, and the investment or investments upon which the same are based, shall hereafter become and remain the annuities and interest and investment or investments of the Cherokee Nation of Indians, the same as they have been the annuities and interest and investment or investments of the Shawnee tribe of Indians. And that the sum of fifty thousand dollars shall be paid to the said Cherokees, as soon as the same shall be received by the United States, for the said Shawnees, from the sale of the lands in the State of Kansas, known as the Absentee Shawnee Lands, in accordance with the resolution of congress, approved April 7th, 1869, entitled: "A resolution for the relief of settlers upon the Absentee Shawnee Lands in Kansas," and the provisions of the treaty between the United States and the Shawnee Indians, concluded May 10th, 1854, and also that the said Shawnees shall abandon their tribal organization.

And it is further agreed, by the parties hereto, that in consideration of the said payments and acts agreed upon, as hereinbefore stated, that the said Cherokees will receive the said Shawnees—referring to those now in Kansas, and also to such as properly belong to said tribe who may be at present elsewhere, and including those known as the Absentee Shawnees, now residing in Indian Territory—into the country of the said Cherokees, upon unoccupied lands east of 96°, and that the said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect, and with all the privileges and immunities of native citizens of said Cherokee Nation; *provided*, that all of said Shawnees who shall elect to avail themselves of the provisions of this agreement, shall register their names, and permanently locate in the Cherokee country, as herein provided, within two years from the date hereof, otherwise they shall forfeit all rights under this agreement.

IN TESTIMONY WHEREOF, The parties hereto have hereunto subscribed their names, and affixed their seals, on the day and year first above written.

H. D. REESE. [SEAL.]
WM. P. ADAIR. [SEAL.]
Delegates representing the Cherokee Nation of Indians.

GRAHAM ROGERS. [SEAL.]
CHARLES TUCKER. [SEAL.]
Delegates representing the Shawnee Tribe of Indians.

Attest:

W. R. IRWIN.
H. E. MCKEE.
A. N. BLACKLIDGE.
JAS. B. ABBOTT.

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W. A. Arnwine

Wilson Co Tenn

Dec-13th 1875

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